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# **CLARK v. CALIFORNIA**

## **REMEDIAL PLAN**

### **I. POLICY**

It is the policy of the California Department of Corrections (CDC) to provide access to its programs and services to inmates and parolees with disabilities, with or without reasonable accommodation, consistent with legitimate penological interests. No qualified inmate or parolee with a disability, as defined in Title 42 of the United States Code, Section 12101-12213 shall, because of that disability, be excluded from participation in or denied the benefits of services, programs, or activities of the Department or be subjected to discrimination.

The Developmental Disability Program (DDP) is the Department's plan, policies, and procedures to assure identification; appropriate classification, housing, and protection; and nondiscrimination of inmates/parolees with developmental disabilities. The DDP applies to all of the Department's institutions/facilities, to all programs that the Department provides or operates, and to all inmates/parolees who are developmentally disabled (DD)—that is, inmates/parolees who have developmental disabilities.

Developmental disability is defined as a disability that originates before an individual attains the age of 18, continues—or can be expected to continue—indefinitely, and constitutes a substantial handicap for that individual. It includes mental retardation, cerebral palsy, epilepsy, and autism. It also includes disabling conditions found to be closely related to mental retardation or to require treatment similar to that required for mentally retarded individuals, but does not include other disabling conditions that are solely physical in nature.

Mental retardation is defined as significantly subaverage intellectual functioning (i.e., an Intelligence Quotient [IQ] of approximately 70 or below on an individually-administered IQ test) with concurrent deficits or impairments in adaptive functioning (i.e., a person's effectiveness in meeting expected standards for his/her age by his/her cultural group) in at least two of the following areas: communication, self-care, home living, social/interpersonal skills, use of [inmate] resources, self-direction, functional academic skills, work, leisure, and health and safety. The condition must have occurred before age 18.

The primary objective of the DDP is to provide equal access to programs and services to inmates/parolees with cognitive and adaptive deficits. The CDC recognizes the needs of low functioning inmates regardless of the age of onset of the disability.

Criteria for inclusion in the DDP are:

- ❖ Low cognitive functioning (usually IQ of 75 or below); and

- ❖ Concurrent deficits or impairments in adaptive functioning. Adaptive functions are defined as abilities necessary to care for oneself and to access programming/services in the correctional setting.

Both criteria must be met. On a case-by-case basis, inmates with an IQ above 75 may be included in the DDP if their adaptive functioning is poor and their needs are not met through another program, e.g., Disability Placement Program (DPP), Enhanced Outpatient Program (EOP), Human Immunodeficiency Virus (HIV).

**CAUTION:** Cognitive/adaptive deficits entirely due to mental/physical illnesses requiring long-term hospital care are not criteria for inclusion in the DDP. Inmates with severe mental/physical illnesses may exhibit deficits in cognitive and adaptive abilities. Such inmates/parolees may be excluded from the DDP if they meet both of the following criteria:

- ❖ Their mental/physical illness is entirely responsible for these deficits. That is, they would not need the adaptive supports of DDP except for their illness; and
- ❖ Their illness is being treated in a setting such as EOP, Outpatient Housing Unit (OHU), Correctional Treatment Center (CTC), General Acute Care Hospital (GACH), Acute Care Hospital (ACH), Department of Mental Health (DMH), etc.

For example, an inmate with advanced dementia requiring 24-hour nursing care may be excluded from the DDP. On the other hand, an inmate outside the hospital setting with mild dementia, who has low cognitive scores and requires adaptive supports to program, should be included in the DDP.

“Clustering” will help the DDP. Clustering is housing groups of inmates who have similar needs together in designated sites. Inmates with developmental disabilities will be assigned to a designated DDP institution/facility that has the program capabilities to meet their needs. From a clinical perspective, inmates identified as having a developmental disability will function adequately in institutional settings and access programs with minimal assistance. Therefore, inmates with developmental disabilities are to be processed through reception centers (RCs) and housed in designated DDP institutions consistent with existing departmental criteria, policy, and procedures, unless otherwise directed by policy contained within this plan.

Screening all inmates’ cognitive abilities and adaptive functioning skills within a correctional environment, as opposed to a community setting, will identify developmentally disabled inmates. The CDC’s assessments are not intended to be an indication of an inmate’s ability to function in the community, nor to be used by the California Department of Developmental Services (DDS) as a basis for its evaluation process or decision to provide services upon an inmate’s release to parole.

The CDC will make reasonable efforts to secure funding necessary to implement the provisions of this plan. Implementation of these provisions became effective upon approval of the budget for the Fiscal Year 1999/2000, with full implementation by January 1, 2000. Local implementation was carried out in three phases beginning December 1, 1999, with eight RCs: California Correctional Institution (CCI), California

Institution for Women (CIW), California State Prison-San Quentin (SQ), Central California Women's Facility (CCWF), Deuel Vocational Institution (DVI), North Kern State Prison (NKSP), Valley State Prison for Women (VSPW), and Wasco State Prison (WSP); and December 15, 1999, for the remaining four RCs: High Desert State Prison (HDSP), Northern California Women's Facility (NCWF), Richard J. Donovan Correctional Facility (RJD), and California Institution for Men (CIM). Effective February 1, 2000, all institutions were instructed to implement the Remedial Plan, as outlined in Section II.

Once the Remedial Plan has been finalized and filed with the court, CDC can seek to modify the plan only if there is a significant change in the facts or the law. Plaintiffs' counsel may also seek modification if the plan does not effectively remedy CDC's violations or if a modification is necessary to ensure plaintiffs receive adequate supportive services to which they are entitled under the Americans with Disabilities Act (ADA), Section 504 of the Rehabilitation Act, or the Constitution. Any party wishing to modify the plan after it has been filed with the court must obtain an agreement from the other parties or an order from the court.

After the Remedial Plan is approved by the court, the CDC will reevaluate the plan annually with input from the court's experts and inmates' counsel to determine whether there are adequate staff resources to effectively provide the services required by this plan.

The CDC will designate central office staff in the Institutions Division and the Health Care Services Clark Coordinator to respond to inquiries from plaintiffs' attorneys as well as inquiries from inmates/parolees with developmental disabilities and the implementation of this plan. Inmates and parolees must exhaust administrative remedies at their institution/parole region before raising issues to the Director's level.

## **II. IDENTIFICATION**

### **A. CATEGORIES OF ADAPTIVE SUPPORT SERVICES ON CDC FORM 128C-2**

- |            |  |
|------------|--|
| <b>NCF</b> | Inmate/parolee has Adequate Cognitive Functions (based on cognitive test scores) and therefore does not require adaptive functioning evaluation.   |
| <b>DD0</b> | Inmates evaluated at an RC who may have low cognitive functioning but determined not to have adaptive support needs, pending reevaluation in 120 to 210 days.  |
| <b>NDD</b> | Inmates evaluated at a mainline or parolee who may have low cognitive functioning but determined not to have adaptive support needs.   |
| <b>DD1</b> | Inmate/parolee can function successfully in a general population (GP) setting in a designated DDP institution consistent with other case factors and usually does not require prompts to initiate activities of self-care and daily living. Inmate may need supervision or guidance and assistance when under unusual stress or in new situations. |

- D1A** Same functional ability as DD1, but there are victimization concerns and housing in a designated DDP building/unit/wing is required.
- DD2** Inmate/parolee can function successfully in a GP setting in a designated DDP institution consistent with other case factors. However, inmate requires prompts to initiate self-care and/or daily living activities and may have victimization concerns, thereby requiring housing in a designated DDP building/unit/wing.
- DD3** Inmate requires placement in a highly structured, specialized program in a designated DDP institution capable of meeting his/her needs. Inmate requires constant prompts, and will not complete tasks without them.

(See Section III, B, for expanded definitions.)

## **B. SCREENING PROCESS**

All inmates will be screened for developmental disabilities using standard instruments, as described below, to ensure uniform application of departmental policies and procedures for screening, identifying, and verifying developmental disabilities and placing identified inmates in appropriate settings. A four-phase process and clinical judgment will be used to identify those inmates who fit the criteria for developmental disabilities. Phase I should take place within seven days after an inmate arrives at an RC or clinical staff receives a referral. Phase II should take place within seven days after an inmate fails the test administered in Phase I. Phase III should take place within seven days after an inmate fails the test administered in Phase II.

Phase I and Phase II cognitive tests may be refused and, with justification, skipped. The later phase is due seven days after the decision to refuse or skip a phase is documented. The Clark Adaptive Support Evaluation (CASE), which is used for Phase III and Phase IV, is not dependent on inmate cooperation; however, if an inmate refuses to be interviewed for the CASE, the clinician must make use of collateral information such as observation of inmate and his living conditions, staff interviews, central file (C-File), unit health record, and other records.

The four-phase process will involve the following:

### **I. PHASE I**

Cognitive skills will be tested using either the Quick Test or the Test of Nonverbal Intelligence (TONI-Third Edition) based on established criteria. Inmates will not be informed of their estimated IQ.

- a) Quick Test:** A cognitive screening tool used in a variety of settings to provide a rapid estimate of cognitive functioning. The Quick Test takes approximately ten minutes to administer. This test will be used to test those inmates who are fluent in English and are not hearing impaired. If an examiner realizes that an



inmate's English skills are limited, the test will be terminated and the inmate referred for the TONI-Third Edition.

- b) **TONI-Third Edition:** A standardized, language-free, problem solving-based test of cognitive ability. The TONI-Third Edition takes approximately 20 minutes. Because it can be administered without use of language, it may be used to obtain an estimate of cognitive skills in individuals who are not fluent in English or are hearing impaired. During administration of the test, no verbal instructions are used. The examiner uses gestures and modeled responses as a means of conveying the task to the inmate.

## **2. PHASE II**

The General Ability Measure for Adults (GAMA) is a timed, group administered, "culture fair" test of cognitive abilities. Instructions are in English or Spanish versions. Also, the questions may be read to the subject and/or translated.

Inmates scoring 80 or less on the Quick Test or the TONI-Third Edition will be given this more extensive, cognitive measure. This test should be given within seven days of Phase I. The GAMA may be administered in groups of approximately ten. Clinicians may exercise their option to administer the Wechsler Adult Intelligence Scale-Revised (WAIS-R), Wechsler Adult Intelligence Scale-III (WAIS-III) or the Wechsler Abbreviated Scale of Intelligence (WASI) in lieu of the GAMA.

## **3. PHASE III**

Inmates scoring 75 or less on the GAMA, WAIS-R, WAIS-III, or WASI will be designated for follow-up review of adaptive skills. Any inmate who refuses or is unable to take any of the cognitive functioning tests must also be designated for review of adaptive skills. The clinician will document the inmate's reason for not completing the cognitive tests on a Mental Health Progress Note CDC Form MH-3.

The CASE will provide a way to determine whether the inmate has an adaptive functioning deficit in the correctional setting. The CASE must be completed within seven days after the inmate did not pass Phase II or did not take a cognitive test.

By observing, interacting, and interviewing with the inmate, receiving verbal reports from officers and staff familiar with the inmate, and reviewing existing records, a psychologist or social worker will complete the CASE. Clinical interviews must be conducted in a manner to ensure the inmate understands—to the best of the inmate's ability. The clinician will complete the CASE with a summary justifying the DDP designation and specifying any significant adaptive programming deficits. The CASE is to be filed under the "Data" tab in the mental health section of the unit health record. These initial results will be documented on a CDC Form 128C-2, Recommendation for Adaptive Supports. The CDC Form 128C-2 must be signed by a licensed mental health clinician. If the

clinician completing the assessment is unlicensed, a licensed clinician must cosign and date CDC Form 128C-2, indicating approval. Health care services clinical staff must forward the completed CDC Form 128C-2 to the Correctional Counselor III (CC-III) or Classification and Parole Representative (C&PR) within 21 days after an inmate arrives at the RC or is referred to clinicians for testing.

**a) Adaptive Deficits:** Examples of areas in which adaptive deficits may be identified, and examples of the types of adaptive deficits that may be presented, are:

- (1) Communication Skills:** The DDP inmates may have poor ability to express themselves verbally or in writing. They may have difficulty understanding basic verbal requests or instructions. They may be unable to understand explanations of custody procedures or disciplinary and classification hearings. They will likely have difficulty with any task requiring reading or processing written material (thus they may have difficulty with disciplinary, classification, and/or appeal processes that require reading and understanding). They will likely have difficulty with any task that requires making written requests.
- (2) Academic Skills:** The DDP inmates may show evidence of poor cognitive abilities/skills related to learning, such as reading, writing, and using basic practical mathematical concepts. The focus of this skills area is not on grade level academic achievement but rather on the acquisition of those academic skills that are functional in terms of independent living.
- (3) Self-Care Skills:** The DDP inmates may show evidence of poor self-care; e.g., seldom bathing, soiled or unkempt clothing, poor eating habits, and/or the inmate's cell may be disorganized/dirty.
- (4) Socialization Skills:** The DDP inmates may show difficulty establishing and maintaining positive relationships. They may seem naive with respect to prison routine or culture. They may give up possessions to other inmates. They may become vulnerable to sexual predators, manipulation by other inmates, and/or be recruited for gang activities. The DDP inmates may engage in a repetitive cycle of disciplinary infractions involving other inmates or correctional officers. This could be suggestive of a lack of judgment and failure to understand the consequences of their actions.
- (5) Self-Advocacy/Use of Inmate Resources:** The DDP inmates may have difficulty advocating for themselves during classification committee hearings, disciplinary proceedings, and the appeals process, and may waive their rights without understanding what they are doing. The DDP inmates may have difficulty understanding how to access inmate resources (such as medical/dental services, the law library, religious services, and the canteen) in a correctional setting.

(6) **Work:** The DDP inmates may have difficulty maintaining a work assignment due to inappropriate social behavior and a lack of related work skills. For example, DDP inmates may be unable to complete tasks; follow work schedules, seek assistance, take criticism, or improve performance. They may also be unable to apply functional academic skills; and to use skills concerning going to and from work, preparing for work, managing oneself while working, and communicating with individuals in the work place.

(7) **Health and Safety:** The DDP inmates may appear naive about maintaining health in terms of eating; identifying, treating, or preventing illness; basic first aid; sexuality; physical fitness; personal habits; and basic safety considerations; such as following rules or seeking assistance. These inmates will likely use inappropriate behavior with others, and have difficulty communicating choices and needs and participating in social interactions.

(8) **Self-Direction:** The DDP inmates may have difficulty making choices; learning and following a schedule; initiating activities appropriate to particular settings, conditions, schedules, and personal interests; completing necessary or required tasks; seeking assistance when needed; resolving problems in familiar and unfamiliar situations; and demonstrating appropriate assertiveness and self-advocacy skills.

(9) **Leisure:** The DDP inmates may not have acquired many leisure and recreational interests that reflect personal preferences and choices. The DDP inmates may have difficulty choosing and initiating interests, using and enjoying leisure and recreational activities alone and with others, taking turns, and/or terminating or refusing leisure or recreational activities. Related skills include behaving appropriately in a leisure and recreational setting, communicating choices and needs, participating in social interaction, applying functional academics, and exhibiting motor skills related to such activities.

b) **Recommendations for Adaptive Support Services:** Staff will initially identify the level of developmental disability at the RC, or program institution for inmates currently within the existing population, by exercising clinical judgment after administering the CASE. The evaluation must include observing, interacting and/or interviewing with the inmate, and may require receiving verbal reports from officers and staff familiar with the inmate, and reviewing existing records. The clinician will use CDC Form 128C-2 to indicate an inmate's DDP designation and identify the adaptive support services the inmate may require. If an adjustment in the adaptive support service is needed once the inmate reaches a designated DDP facility, the changes will be documented on the CDC Form 128C-2.



Support services include but are not limited to the following:

- (1) **Prompting:** These are reminders provided to inmates to begin or complete an activity or behavior; e.g., completing self-care, requesting cleaning supplies, accessing medical care, reporting to work, attending meals, conducting laundry exchange, complying with count procedures, etc. Prompts may involve verbal, visual, or written reminders, as well as hand gestures. With clinical review, attempts must be made to systematically lessen prompting to promote independent functioning.
- (2) **Coaching:** This is prompting an inmate through specific, usually vocational, tasks until the inmate has acquired the skill to complete the task independently. This is done by teacher's aides and work supervisors.
- (3) **Assisting:** This is assistance by trained departmental staff to enable DDP inmates to understand and participate in—to the best of their ability—disciplinary, classification, and other administrative hearings. This assistance would also include completing any forms or documents necessary to secure any rights or benefits available to nondisabled inmates. The DDP inmates must be afforded reasonable accommodation to ensure equally effective communication—to the best of their ability.

  - ❖ Inmates/parolees needing assistance to effectively use the Inmate/Parolee Appeals Process must be provided assistance by the Appeals Coordinator, the assigned Correctional Counselor I (CC-I), or designated Parole & Community Services Division staff, as described in California Code of Regulations (CCR), Title 15, Section 3084.3(b)(3).
  - ❖ The assigned CC-I must assist DDP inmates with issues that include, but are not limited to, classification, program assignments, applications for credit restoration, completion of Board of Prison Terms (BPT) Form 1073, Notice and Request for Reasonable Accommodation, safety and security concerns, and elements of due process.
  - ❖ Staff Assistants (SAs) who have received training specified in Section X, D, must be assigned by a Senior Hearing Officer to assist DDP inmates throughout the disciplinary process for both administrative and serious rules violations.
- (4) **Monitoring:** This is providing additional supervision of a DDP inmate's self-care and/or cell maintenance, personal safety, behavior, and property.

All adaptive support services provided to DDP inmates must be documented. Forms and other instruments that may be used to record these services include, but are not limited to: Unit Log Book; CDC Form 114-A, Isolation/Segregation Record; CDC Form 115, Rules Violation Report; CDC Form 128-A, Custodial Counseling Chrono; CDC Form 128-B, General



Chrono; CDC Form 128-G, Classification Chrono; and/or any other form used to prove that CDC provided DDP inmates with due process.

#### **4. PHASE IV**

THE DD0, DD1, D1A, DD2, and DD3 inmates will be given a Phase IV evaluation, again using the CASE, no sooner than 120 days and no later than 210 days after completing Phase III. This evaluation must include an interview and/or observation of the inmate, and may require interviews with staff, and a review of the inmate's Unit Health Record and C-File (refer to Section II, B, 3). A CDC Form 128C-2 will be completed to confirm or change the DDP designation, and to update the adaptive support services the inmate may require. An NDD designation will be given to inmates who are found not to need adaptive services after the Phase IV evaluation. Inmates needing adaptive support services will be made (or remain) DD1, D1A, DD2, or DD3.

Later reevaluations also shall be called Phase IV evaluations and be completed using the CASE. A CDC Form 128C-2 must be generated for each Phase IV evaluation, even if there is no change in the inmate's/parolee's designation.

A new CDC Form 128C-2 may also be completed to include a more appropriate adaptive needs summary. Provided the DDP designation does not change, a new CASE is not required. (The update would not be considered a Phase IV evaluation unless a new CASE was completed.)

#### **C. RECEPTION CENTER SCREENING/PROCESSING**

1. All inmates must continue to undergo the existing comprehensive screening process at RCs to confirm case factors, custody concerns, academic/vocational needs, and medical/psychiatric problems, including identifying developmental disabilities to determine appropriate placement. Existing RC processing policy and procedures must be utilized unless otherwise directed by policy contained in this plan.
2. Inmates with developmental disabilities must be processed out of RCs within 60 days of the date they are received by CDC, unless external factors temporarily prohibit a transfer. In cases where an inmate is housed in an RC pending revocation, it should be noted that the 60-day clock does not apply until the inmate has appeared before the BPT and parole has been revoked.
3. The existing RC process for identifying medical and mental health problems will be enhanced using the four-phase process described in Section II, B, to provide screening for developmental disabilities. All RCs have been designated to provide temporary housing and processing for inmates/parolees identified as meeting DDP criteria. For example: the inmate/parolee identified as DDP shall be provided adaptive supports while temporarily housed at the RC pending disciplinary proceedings. All RC processing and classification committee actions must be completed prior to transfer to a designated DDP facility.

4. Unless a CDC Form 128C-2 is already in the inmate's files, clinical staff must complete such form on each inmate processed through the RC before endorsement to a programming institution by a Classification Staff Representative (CSR).
5. Health care services clinical staff must complete the testing, screening, and initial clinical review for developmental disabilities, and forward the completed CDC Form 128C-2 to the RC CC-III within 21 days after the inmate arrives at the RC.
6. Any inmate who is determined not to have a developmental disability at either the first or second phase of screening (Quick/TONI-Third Edition or GAMA), will have that fact noted on CDC Form 128C-2, in the section indicating "NCF," and will continue with normal RC processing.
7. Any RC inmate failing or not taking both cognitive tests, but determined by completion of Phase III during the initial clinical review to have no adaptive deficits in a correctional setting, will have that fact noted on CDC Form 128C-2 in the section indicating "DD0," and will be identified for follow-up review. The inmate identified as "DD0" will be endorsed to a programming institution consistent with existing case factors, excluding institutions as identified in Section IV, C, 1.

The inmate identified as "DD0" will be reevaluated by clinical staff within 120 to 210 days after completion of Phase III, using the process described as Phase IV, Section II, B, 4.

8. Once staff designate an inmate for the DDP, and basic adaptive support services have been identified on CDC Form 128C-2, those identified services must be provided to the inmate pending transfer to a designated DDP institution. As initially indicated by the clinician on a CDC Form 128C-2, staff must provide basic adaptive support services as necessary to ensure the inmate's safety, and provide effective communication as outlined in training modules identified in Section X of this plan. Staff assistance will be provided to ensure inmates understand and participate, to the best of their ability, in the RC process and any administrative or disciplinary hearings, or due process functions, etc.
9. All identified DDP inmates will be assigned housing in a manner that addresses their safety and security needs pending transfer to an appropriate designated DDP facility.
10. Inmates showing signs of having a developmental disability or whose records (Probation Officer's Report, Medical/Mental Health Information Transfer Form, etc.) suggest that they may be so disabled, must be assigned housing that addresses their safety and security needs pending completion of their screening.
11. Staff must maintain a confidential photo identification roster within all units housing inmates identified with developmental disabilities, which will include a copy of the CDC Form 128C-2.

12. Specific and basic adaptive support services must be identified by the clinician in the Phase IV evaluation using the CASE. Specific adaptive support services prescribed must be documented on CDC Form 128C-2.
13. Inmates who have already been screened and given a DDP designation through previous RC/GP testing may have the test readministered upon readmission to CDC. Institution clinical staff should retest inmates if they feel it is necessary, or there appears to be a variance between prior test results and an inmate's current functioning level. Also, retesting may be warranted in cases where an inmate has multiple prior CDC Forms 128C-2 that show varying results. Basic adaptive support services must be provided as indicated on the previously completed CDC Form 128C-2. Inmates paroled before Phase IV was completed will be reevaluated with CASE in the 120-210 day interval, not counting the days outside of CDC custody.
14. The CDC Form 128C-2 identifying inmates as having a developmental disability (DD1, D1A, DD2, DD3) must be distributed by clinical staff at an RC as follows: original placed in the "General Chrono" section of the inmate's C-File, copies made for the health record, the C&PR or CC-III, the assigned CC-I, correctional officers assigned to the inmate's housing unit, and the inmate.
15. The CDC Form 128C-2 identifying inmates as not requiring adaptive support services (NCF, DD0, NDD) must be distributed by clinical staff at an RC as follows: original placed in the "General Chrono" section of the inmate's C-File, copies made for the health record, the C&PR or CC-III, and the inmate.
16. Staff must ensure that information contained on CDC Form 128C-2 is not available to other inmates. Files with CDC Forms 128C-2 and the separate photo identification roster are to be maintained in secure locations and readily accessible to staff.
17. Once an inmate is identified as developmentally disabled, the RC CC-III must ensure priority is given to expedite completion of the RC process and referral to a CSR.

#### **D. ADJUSTMENTS DUE TO EXTENDED RECEPTION CENTER STAY**

The DDP inmates will be processed out of RCs no more than 60 days from the date they are received by CDC unless they are detained due to factors not caused by CDC's delay. Such factors might include, for example, medical necessity, court appearances, disciplinary proceedings, no documented in-level bed availability systemwide, etc. Any period of time beyond the initial 60 days of a DDP inmate's stay at an RC shall be referred to as the inmate's "extended stay."

If a DDP inmate remains at an RC for more than 60 days, a presumption arises that the extended stay is attributed to the DDP screening process or the inmate's DDP status. To overcome this presumption, CDC must demonstrate that the inmate's transfer out of the RC was at no time delayed solely due to the DDP screening process or the inmate's DDP status. In this case, CDC need not grant additional sentence

credits or mainline privileges. In the alternative, CDC may demonstrate that the cumulative period of all delays related to the DDP screening process or the inmate's DDP status was shorter than the inmate's extended stay, in which case CDC need only accommodate the inmate for the cumulative period of delays related to his/her DDP screening or DDP status.

Verification that the inmate's extended stay in the RC was not due to the inmate's DDP screening process or the inmate's DDP status must be demonstrated by documentation, i.e., CDC Form 128-G.

When the CC-III/C&PR responsible for tracking DDP inmates determines that a DDP inmate's stay has been extended beyond 60 days solely due to the inmate's DDP screening process or the inmate's DDP status, CDC must accommodate the inmate as described below. The following accommodations for an extended RC stay are only available to inmates identified as having a developmental disability (DD1, D1A, DD2, DD3). Qualifying inmates may file a CDC Form 1824, Reasonable Accommodation or Modification Request, to request accommodation for an extended stay. [Note: Most inmates identified as eligible for the DDP will be unable to complete this form independently.] All staff will be responsible for providing the inmate with assistance to complete the form.

During RC processing, DD0 inmates remaining in the RC beyond 60 days are not eligible for extended stay credit relief.

#### **E. ACCOMMODATIONS**

##### **1. PRIVILEGES**

The DDP inmates (DD1, D1A, DD2, DD3) who remain at RCs for extended stays, are entitled to privileges that are available at mainline institutions, as outlined in CCR, Title 15, Section 3044(d), Privilege Group A.

When the CC-III/C&PR responsible for tracking DDP inmates determines that a DDP inmate's RC stay will be extended beyond 60 days, the inmate's case will be presented to a classification committee on the 61<sup>st</sup> day for determination of whether the extended stay is solely due to the inmate's DDP screening process or the inmate's DDP status. The determination by the classification committee must be documented on a CDC Form 128-G. If the classification committee determines that the extended stay is solely due to the inmate's DDP screening process or the inmate's DDP status the corresponding CDC Form 128-G granting Privilege Group A must be forwarded to custody staff to ensure privileges are provided as required.

If the classification committee determines that the extended RC stay is not solely due to the inmate's DDP screening process or the inmate's DDP status, the CDC Form 128-G must document the basis for the decision and state that the inmate is not eligible for Privilege Group A during the inmate's extended stay in the RC.



## **2. WORK GROUP CREDITS**

- a) The DDP inmates who remain at RCs for extended stays solely due to their DDP screening process or the inmate's DDP status and who are serving sentences of less than one year, or have less than one year remaining on their sentence while undergoing RC processing, must, pursuant to the procedures described below, receive sentencing credits that they could have earned if they had been transferred to a program institution on the 61<sup>st</sup> day of RC stay.

The inmate's case will be presented to a classification committee on the 61<sup>st</sup> day. The classification committee must determine whether the extended stay is solely due to the inmate's DDP screening process or the inmate's DDP status, and that determination by the classification committee must be documented on a CDC Form 128-G. If the classification committee determines that the extended stay is solely due to the inmate's developmental disability, the corresponding CDC Form 128-G (granting work time credits) must be forwarded to the Case Records Manager to apply the applicable credits as outlined in CCR, Title 15, Section 3044(b)(1), Work Group A-1. The DDP inmates who, by law, are precluded from earning day-for-day credit based on the Penal Code (PC) section under which they are sentenced (required to serve 100 percent, 85 percent, or 80 percent of their sentence) are ineligible for credit relief for extended stays.

If the classification committee determines that the extended RC stay is not solely due to the inmate's DDP screening process or the inmate's DDP status, the CDC Form 128-G must document the basis for the decision and state that the inmate is not eligible for worktime credits during the inmate's extended stay in the RC.

- b) The receiving program institution must review the C-File of each DDP inmate to determine if his/her RC stay exceeded 60 days. If so, the inmate's extended stay shall be presumed to be solely due to his/her DDP screening process or the inmate's DDP status, unless CDC can overcome this presumption as provided above, i.e., the inmate had been detained by factors not caused solely by a disability. If the inmate's DDP screening process or the inmate's DDP status was the sole cause of the extended stay, adjustments to the inmate's worktime credits will be made, once initial classification is held at the program institution, to reflect credits as if the inmate had been engaged in a work program on the 61<sup>st</sup> day, as outlined in the CCR, Title 15, Section 3044(b)(1), Work Group A-1.

The day the inmate is received by the program institution, the RC extended stay time period ends and the inmate's work/privilege group reverts to U/U (unclassified) until the date of the Initial Classification Committee. The Initial Classification Committee will then designate an appropriate work/privilege group for the inmate and place him/her on an assignment waiting list.

A statement from the classification committee on the CDC Form 128-G shall accomplish credit relief, similar to that used in a "time gap chrono" covering period(s) of delays related to an inmate's DDP screening process or the inmate's DDP status. At no time shall the credit relief exceed the total period of the extended stay.

#### **F. IDENTIFICATION OF INMATES WITHIN THE EXISTING POPULATION**

Efforts to identify inmates with developmental disabilities must be continuous. Identification of inmates with developmental disabilities currently incarcerated within CDC's facilities will involve the following:

1. **DATABASE SEARCH:** The CDC and DDS must attempt to share information about inmates who may have previously been evaluated or received services from DDS. A database search (with a 50 percent or above probability rate) will identify individuals within CDC's population who may have been previously evaluated by and/or received services from DDS. This database search will be repeated every six months to assist in identifying any inmate with a history of services from DDS, who has entered CDC's system, but has not been identified as having a developmental disability by CDC staff. (The CDC is negotiating with DDS for release of this information.) Information from the DDS client list received by Health Care Services Division (HCSO) must be reviewed by departmental clinicians upon receipt. Inmates identified through this process must be referred to their institution's/facility's health care services for screening using the four-phase process.

The CDC will consider obtaining case histories from DDS of inmates having received services from DDS if information obtained will be of significant value in assessing or providing services to individual inmates.

2. **CLASSIFICATION COMMITTEE ACTIONS:** During Initial Classification Committee actions on inmates transferred from one institution/facility to another, Administrative Segregation Unit placement hearings, Annual Classification Committee actions, or any other required classification committee actions for program review, the assigned CC-I shall refer the inmate, by a CDC Form 128-B, to the institution/facility's health care services for screening using the four-phase process, when any of the following are true:
  - a) The inmate's last Test of Adult Basic Education (TABE) complete battery reading score was four (4.0) or lower and is not attributable to language problems, e.g., non-English speaking, etc.
    - ❖ If the TABE test has not been administered, the inmate will be referred to the institution/facility's Education Department for immediate testing.
  - b) There has been no previous testing for developmental disabilities; or
  - c) There are other signs of adaptive deficits, i.e., problems with self-care, police/probation reports indicating possible developmental disabilities, an

indication there was a question of competency to stand trial (even if found competent), multiple disciplinary actions possibly indicating a poor understanding of rules/expectations, difficulty understanding simple instructions, etc.

3. **STAFF REFERRAL:** If behavior is observed or information is received by staff indicating an inmate may have a possible developmental disability, staff must refer the inmate for screening by directing a standard CDC Form 128-B to the institution/facility's health care services. Phase I should take place within seven days after staff receives a referral. Phase II should take place within seven days after an inmate fails Phase I. Phase III should take place within seven days after an inmate fails Phase II. Health care services clinical staff must forward the completed CDC Form 128C-2 to the CC-III or C&PR within 21 days after the inmate is referred to clinicians for testing. In addition, a referral shall be triggered by any of the following:
  - a) The inmate claims to have a developmental disability.
  - b) The inmate's health care or C-File contains documentation of a developmental disability; e.g., previously endorsed as Category "K" and there has been no previous testing.
  - c) A third party (such as a family member) requests testing of an inmate for an alleged developmental disability.
4. Institution health care services clinical staff must complete the four-phase testing and clinical review and forward a complete CDC Form 128C-2 to the institution's C&PR within 21 days of receiving the referral. The C&PR must route a copy of the completed CDC Form 128C-2 to the inmate's assigned CC-I.
5. Once an inmate is designated for the DDP by clinical staff, the C&PR must ensure the inmate appears before an appropriate classification committee for referral to a CSR. The inmate's case must be presented to a CSR for endorsement within 14 days after being identified as a DDP inmate. The C&PR must make all reasonable efforts to expedite the transfers of DDP inmates once endorsed by a CSR to a designated DDP institution.
6. Once an inmate is designated DD1, D1A, DD2, or DD3, and the basic support services have been identified, those identified services must be provided to the inmate pending transfer to a designated DDP institution. As indicated by the clinician on a CDC Form 128C-2, custody staff must provide basic support services as necessary to ensure the inmate's safety, and provide effective communication. Staff assistance [refer to Section II, B, 3, b) (3)], must be provided to ensure inmates understand and participate—to the best of their ability—in any classification or disciplinary hearing or other due process function.
7. All identified DDP inmates must be assigned housing in a manner that addresses their safety and security needs pending transfer to an appropriate designated DDP facility.

8. Staff must maintain a separate photo identification roster within all units housing inmates identified with developmental disabilities pending transfer to a designated DDP institution.
9. All departmental psychologists must receive training in screening for developmental disabilities, and in recommending support services. This training must include:
  - ❖ Applying criteria for identifying developmental disabilities.
  - ❖ Using standardized instruments to test cognitive ability (Quick/TONI-Third Edition and GAMA).
  - ❖ Using the CASE.
  - ❖ Prescribing specific adaptive supports needed.
  - ❖ Applying criteria for placing inmates in settings according to their developmentally disabled designations.
10. All departmental staff must receive training to effectively communicate with developmentally disabled inmates, as described in Section X.

#### **G. EXPEDITED TRANSFERS**

All institutions must promptly transfer DDP inmates to an appropriate DDP designated institution/facility. After a CSR endorses the inmate for transfer to an appropriate designated DDP institution, the RC CC-III/C&PR will ensure the inmate is promptly transferred.

Once an inmate in the RC is identified as developmentally disabled on a CDC Form 128C-2, the CC-III must ensure that the RC processing is completed by the CC-I and the case presented to the CSR within 14 days after being identified as a DDP inmate. In the event an inmate with a developmental disability remains at the RC for more than 60 days, the provisions regarding RC Extended Stay shall apply if it is determined that the DDP inmate's stay has been extended beyond 60 days solely due to the inmate's participation in the DDP.

The RC CC-III shall make all efforts to expedite transfers of inmates identified as DD once endorsed to a designated DDP institution by the CSR. Inmates identified as DD shall be given priority consideration over nonemergency medical/psychiatric/security transfer consistent with Section VI, J, 7.

In the existing population, the C&PR must ensure that an inmate designated for DDP on a CDC Form 128C-2 appears before a classification committee for referral to a CSR within 14 days after being identified as a DDP inmate.

After a CSR endorses the inmate for transfer, the RC CC-III/C&PR must ensure that the DDP designation is entered into the comments/purpose field on the Distributed Data Processing System/Interim Transportation Scheduling System (ITSS) during the weekly bus seat request process. If the requested bus seat does not appear on the



subsequent ITSS send and intake notice, the RC CC-III/C&PR must contact the Institution Standards and Operations Section (ISOS) at Headquarters for assistance in the requested transfer. The ISOS will then liaison with the Transportation Services Unit to expedite the transfer. Pending transfer, CDC must reasonably accommodate the DDP inmate.

#### **H. ASSESSMENT OF IDENTIFICATION PROCESS**

To assure that all DDP inmates within the existing population have been identified through RC screening, data base search, referrals by appropriately trained staff, and referrals by classification committee actions as described above, the CDC will, within two years starting July 1, 2001, submit all unscreened inmates to the four-phase testing process as described in Section II, B. Once the testing process has begun, Phase II should take place within seven days after an inmate fails the test administered in Phase I. Phase III should take place within seven days after an inmate fails the test administered in Phase II. The HCSD Clark Coordinator must track inmates who have not been previously screened and will notify the clinicians at the institutions of the identities of inmates requiring screening.

#### **I. VERIFICATION**

1. The CDC must screen for and verify the presence of developmental disabilities within the population of inmates/parolees. Screening/verification of a developmental disability by clinical staff must be recorded on a CDC Form 128C-2. Once completed and signed or cosigned by a licensed clinician, the CDC Form 128C-2 must become part of the inmate's/parolee's C-File and must remain in effect until otherwise modified by a clinician as a result of changes in the inmate's adaptive functioning level in a correctional setting.

An inmate's refusal to participate in the screening process with clinical staff may, but does not necessarily, indicate an adaptive behavioral deficit. If an inmate refuses to cooperate and has observable signs of adaptive functioning deficits, the institution/facility's health care services clinical staff must record the observable deficits, complete the CASE as described in Section II, B, 3, and make recommendations on a CDC Form 128C-2.

The clinical staff in the RC may use the inmate's stay in the RC as a period of observation to complete Phase III, as identified in Section II, B, 3. The inmate may be designated as DD0 if he/she presents low cognitive skills but does not require adaptive support services.

Clinical staff must use the CASE as identified in Section II, B, 3, if an inmate in the existing population refuses to cooperate with the screening process. The clinician should observe the inmate, conduct interviews of correctional officers and other staff familiar with the inmate, and review existing records. This inmate can be designated as NDD if found not to need adaptive support services.

2. Institution/facility health care services clinical staff are responsible for responding to referrals from staff, conducting cognitive and adaptive functioning testing,

identifying adaptive deficits, and making clinical judgments. Licensed clinical staff are also responsible for documenting the DDP category and recommendations for adaptive support services on a CDC Form 128C-2.

3. The clinician determining the DDP designation must complete a CDC Form 128C-2 and sign in the signature block provided. If the clinician is unlicensed, a licensed clinician must cosign and date CDC Form 128C-2, indicating approval.

- a) If the inmate has adequate cognitive test scores and does not require adaptive functioning evaluation, the clinician must check the box indicating "NCF."
- b) If the RC inmate does not receive a passing score on the Phase I or II cognitive tests and, after completion of the CASE, is found not to require adaptive support services, the clinician must check the box on CDC Form 128C-2 indicating "DD0," and enter an explanation in the Comments Section.

The inmate identified as DD0 will be endorsed to an institution consistent with existing case factors, excluding institutions identified in Section IV, C, 1. Inmates identified as DD0 will be tracked by health care services and be reevaluated by a clinician 120 to 210 days after completion of the Phase III testing using the process identified in Section II, B, 3. The clinician can and should reevaluate the inmate sooner if there are observable signs of adaptive functioning deficits. Inmates designated as NDD should be reevaluated for DDP placement if their behavior indicates the need for reevaluation.

A DD0 can be designated DD1, D1A, DD2, or DD3 at any time. Such inmate cannot be designated NDD until assessed 120 to 210 days after receiving a DD0 designation.

If the inmate has been reevaluated and found not to require adaptive support, health care staff must complete a CDC Form 128C-2 and check the box indicating NDD. This CDC Form 128C-2 will be forwarded to the C&PR. If the inmate is being retained in the institution, the C&PR will complete a CDC Form 840, Reclassification Score Sheet, annotating the NDD coding change in the administrative determinate section. If the inmate is to be transferred the CSR must complete the CDC Form 840.

- c) If a mainline inmate does not receive a passing score on the Phase I or II cognitive tests and, after completion of the CASE, is found not to require adaptive support services, the clinician must check the box on the CDC Form 128C-2 indicating "NDD," and enter an explanation in the Comments Section.
- d) If it is determined that the inmate/parolee has a developmental disability that does not require special placement, does not usually require prompts to initiate self-care or daily living activities, and the inmate may be housed in one of CDC's designated DDP facilities in a GP setting consistent with other case

factors, the clinician must check the box indicating "DD1." This inmate may require extra prompting during new or stressful situations.

- e) If it is determined that the inmate/parolee has a developmental disability equal to that of DD1, but there are observations or documentation that suggest the inmate may be vulnerable to victimization—thereby requiring special placement in a designated building/unit/wing—the clinician must check the box indicating "D1A."
- f) If it is determined that the inmate/parolee has a developmental disability, can function in a GP setting consistent with other case factors, but requires prompts to initiate self-care and/or daily living activities or has victimization concerns—thereby requiring special placement in a designated building/unit/wing—the clinician must check the box indicating "DD2."
- g) If it is determined that the inmate/parolee has a developmental disability so severe that placement is required in specialized DDP institutions (such as California Medical Facility [CMF], California Men's Colony [CMC], or Central California Women's Facility [CCWF]), the clinician must check the box indicating "DD3."
- h) Special concerns, such as documented mental or physical health care needs, may be addressed by recording specific needs on a CDC Form 128-C, Chrono-Medical/Psych/Dental, and attaching it to a CDC Form 128C-2. The CDC Form 128C-2 Comments Section must reflect that CDC Form 128-C has been prepared, alerting staff to read it. Recommended adaptive support services must also be noted. Additional notes, references, explanations, and/or information not indicated elsewhere may be noted in the Comments Section of the CDC Form 128C-2.
- i) Adaptive support services noted on the CDC Form 128C-2 must correspond to those of the specified developmental disability category.
- j) The CDC Form 128C-2 identifying inmates as having a developmental disability (DD1, D1A, DD2, DD3) must be distributed by clinical staff at designated institutions as follows: original placed in the "General Chrono" section of the inmate's C-File; copies made for the health record, the C&PR or CC-III, the assigned CC-I; correctional officers assigned to the inmate's housing unit and who monitor his/her daily activities; the Inmate Assignment Lieutenant; the assigned work supervisor/teacher; and the inmate.
- k) The CDC Form 128C-2 identifying inmates not requiring adaptive support services (NCF, DD0, NDD) must be distributed by clinical staff as follows: original placed in the "General Chrono" section of the inmate's C-File, copies made for the health record, the C&PR or CC-III, and the inmate.
- l) Staff must ensure that information contained on the CDC Form 128C-2 is not available to other inmates. Files with CDC Form 128C-2s and the separate

photo identification rosters are to be maintained in secure locations and readily accessible to staff.

### **III. STANDARDS**

#### **A. PLACEMENT CRITERIA**

Placement must be determined by identifying the nature and severity of the developmental disability, adaptive deficits, and adaptive support services required. Determining the nature and intensity of adaptive support services that an inmate requires will be based on a clinical appraisal of each case. Some inmates identified by clinical staff as having a developmental disability will function adequately in designated institution settings and programs. However, where the level of disability includes potential vulnerability to predatory behavior or a need for more intensive supervision and intervention, special placement in a designated building/unit/wing will be considered. Once identified, adaptive support services must be reviewed and adjustments made as identified by the Interdisciplinary Support Team (IDST) (see Section III, C).

#### **B. CATEGORIES**

Developmental disabilities include the following categories and associated adaptive support services necessary to function in a correctional environment:

**I. MENTAL RETARDATION:** For each inmate found to have symptoms of mental retardation and to require adaptive support services (through completion of the cognitive testing process and review of adaptive functioning), a clinician must recommend the type of placement and adaptive support services. These recommendations will be based upon a combination of patterns and intensities identified by the American Association on Mental Retardation and levels of severity identified in the Diagnostic and Statistical Manual of Mental Disorders—Fourth Edition. The CDC anticipates that with adaptive support services, identified DDP inmates' functioning level may improve and their developmental disability category may change. Definitions of mental retardation used in this Remedial Plan are for the purposes of this document only, within the correctional environment. They are not intended to meet criteria used by DDS or the community to diagnose mental retardation or to provide services to mentally retarded people.

- a) **NCF:** Inmate received a passing score on Phases I or II cognitive tests and did not require adaptive functioning evaluation.
- b) **DD0:** An RC inmate who may have low cognitive skills but does not require adaptive support services in the correctional setting.
- c) **NDD:** Inmate initially identified as DD0 has been reevaluated and found not to require adaptive support services, or a mainline inmate failing or not receiving Phase I and II but found not to require adaptive support services.



These inmates should be reevaluated for DDP placement if problems with adaptive functioning arise.

- d) **DD1:** This inmate can function successfully in a GP setting in a designated DDP institution consistent with other case factors and usually does not require prompts to initiate activities of self-care and daily living. This inmate may need supervision or guidance and assistance when under unusual stress or in new situations.

This inmate must always have an SA in disciplinary hearings, CDC Form 114D reviews, and Administrative Segregation Hearing Placement Notice to determine the need for retention in Administrative Segregation Housing and Classification Committees. The level and method used to provide staff assistance can be determined on a case-by-case basis to ensure the DDP inmates understand and participate (to the best of their ability) in any other due process function. Their ability to understand may worsen in a stressful situation.

**ADAPTIVE SUPPORT SERVICES FOR DD1 INMATES:** Occasional support is needed, especially in more complex, stressful areas. Support is required during disciplinary/classification hearings, and may be needed with the inmate appeal process.

- \* **SELF-CARE:** The inmate has the ability to perform all components of self-care, although occasional prompts may be required to initiate some tasks. Once prompted, inmate is capable of appropriately completing the task.
- \* **DAILY LIVING SKILLS:** The inmate has the ability to perform all components of routine cell maintenance and laundry, but occasionally may require prompts to initiate some activities. Once prompted, inmate is capable of performing these activities.
- \* **SOCIAL SKILLS:** The inmate appears to interact in a relatively normal fashion with other inmates. There are no observations to suggest the inmate is more submissive, apprehensive, or naive and a likely target for exploitation or victimization. The inmate may display various levels of aggressive or poorly controlled behavior when subjected to stressful situations.
- \* **SELF-ADVOCACY:** The inmate may accidentally waive or not understand due process rights. The inmate should be able to follow and participate in classification or disciplinary hearings with an SA who has met the training requirements in Section X, D, to provide additional explanation when necessary, or ask questions to ensure the inmate understands—to the best of his/her ability—the process. The inmate is able to participate and initiate communication during the advocacy when assistance is provided by the SA, e.g., helps by explaining the process or by writing for the inmate. The

inmate is able to dictate relevant issues but may require assistance with writing and documentation.

- e) **DIA:** Same functional ability as DD1, but there are victimization concerns and housing in a designated DDP building/unit/wing is required. Adaptive support services are the same for this inmate as for a DD1 inmate, except the following:

- \* **SOCIAL SKILLS:** The inmate may be at a disadvantage interacting with other inmates, e.g., noticeably meek, anxious, solicitous, inappropriately submissive to other inmates, and/or there are other observations suggesting the inmate is vulnerable to exploitation or victimization.

- f) **DD2:** This inmate can function successfully in a GP setting in a designated DDP institution consistent with other case factors. However, this inmate requires prompts to initiate self-care and/or daily living activities and may have victimization concerns, and therefore requires housing in a designated DDP building/unit/wing. Once prompted, inmate can complete the activity without further prompting. Inmate can perform unskilled and semiskilled work in a GP setting, adapts well to a correctional environment. Inmate shall have an SA assigned at due process hearings as described in Section III, B, 1, d), to ensure issues are understood (to the best of his/her ability).

**ADAPTIVE SUPPORT SERVICES FOR DD2 INMATES:** Limited support is required. Inmate requires prompts and support in certain areas of functioning, e.g., laundry, due process hearings, access to medical appointments, etc.

- \* **SELF-CARE:** The inmate has the ability to perform all components of self-care, although prompts are required to initiate these tasks. Once prompted, the inmate is usually capable of appropriately completing the task.
- \* **DAILY LIVING SKILLS:** The inmate has the ability to perform all components of routine cell maintenance and laundry, but may require prompts to initiate these activities. Once prompted, the inmate is usually capable of completing these activities.
- \* **SOCIAL SKILLS:** There are elements of the inmate's manner when interacting with other inmates to suggest a possible disadvantage to the developmentally disabled inmate in such personal interactions. The inmate may be noticeably meek, anxious, solicitous, or inappropriately submissive to other inmates. In addition, there may be observations that suggest the inmate is a likely target for exploitation or victimization. Also, the inmate may display various levels of aggressive or poorly controlled behavior when subjected to stressful situations.
- \* **SELF-ADVOCACY:** The inmate may have some difficulty following and participating in classification or disciplinary hearings. The inmate may accidentally waive or not understand due process rights unless an SA

provides explanations and asks questions to ensure the inmate understands—to the best of his/her ability—the process. The inmate may be able to participate in and initiate communication with an advocacy or appeal process when assisted. This inmate is usually able to dictate relevant issues but requires assistance with writing and documentation.

- g) **DD3:** This inmate requires placement in a highly structured, specialized program in a designated DDP institution capable of meeting his/her needs. The inmate can be trained in elementary self-care skills, master sight reading of survival words, and can perform simple tasks in a correctional setting. Inmate requires constant prompts to complete self-care and daily living tasks and will not complete tasks without continued prompts. Inmate must have an SA assigned in due process hearings. Inmate requires special programs tailored to his/her level of comprehension. May have victimization concerns.

**ADAPTIVE SUPPORT SERVICES FOR DD3 INMATES:** Support is required on a daily basis.

- \* **SELF-CARE:** The inmate requires repeated prompts to perform basic self-care tasks. Unless carefully observed and prompted, this inmate fails to initiate or adequately complete all components of self-care tasks.
- \* **DAILY LIVING SKILLS:** The inmate requires repeated prompts and/or other guidance to complete daily living tasks. When this inmate is prompted to complete a task; e.g., cleaning the cell, showering, etc., that task may not be completed appropriately unless the inmate is prompted through each part and shown how to do the task. Reminders to simply initiate the task are not sufficient and may result in the task not being done or being done poorly.
- \* **SOCIAL SKILLS:** There are elements in the manner the inmate interacts with other inmates suggesting he/she will be at a clear disadvantage. The inmate may be noticeably meek, anxious, solicitous, or inappropriately submissive to other inmates. In addition, there may be observations suggesting the inmate is a likely target for exploitation or victimization, or the inmate may display various levels of aggressive or poorly controlled behavior when subjected to stressful situations
- \* **SELF-ADVOCACY:** The inmate has substantial difficulty or is incapable of following and participating in classification or disciplinary hearings, even when an SA is present to provide additional explanations. The inmate may inappropriately agree to waive due process rights without understanding what he/she is doing. The inmate may be marginally or completely unable to participate and/or initiate communication within an advocacy or appeal process even when assisted. This inmate may be unable to dictate relevant issues and will require assistance with writing or documentation.

2. **AUTISM/CEREBRAL PALSY/EPILEPSY:** Inmates diagnosed with these developmental disabilities must be evaluated on a case-by-case basis by health care staff. Institution placement must be consistent with medical/mental and custody factors.

- a) **AUTISM:** A mental disorder originating in infancy that is characterized by self-absorption, an inability to interact socially, repetitive behavior, language dysfunction, inflexible adherence to specific nonfunctional routines or rituals, stereotyped and repetitive motor mannerisms, and persistent preoccupation with parts of objects. This condition is usually accompanied by marked withdrawal from reality.
- b) **CEREBRAL PALSY:** A disability resulting from damage to the brain before, during, or shortly after birth and outwardly manifested by muscular incoordination and speech disturbances.
- c) **EPILEPSY:** Any of the various disorders marked by disturbed electrical rhythms of the central nervous system and typically manifested by convulsive attacks usually with clouding of consciousness.

**ADAPTIVE SUPPORT SERVICES REQUIRED:** Support services must be provided as clinically indicated. Placement in a designated DDP facility will be dependent upon the facility's ability to provide identified adaptive support services.

#### **C. INTERDISCIPLINARY SUPPORT TEAM**

- 1. The Interdisciplinary Support Team (IDST) is a multiple member interdisciplinary team at designated DDP institutions (identified in Section IV, C, 2 and 3). The IDST is comprised of clinical, classification, custodial, education, and others. They review and determine program needs of DDP inmates. The IDST functions only at designated DDP institutions. The IDST ensures the provision of adaptive support services necessary for a DDP inmate to function at an acceptable level in the correctional environment.
- 2. The IDST shall act as the Institution/Unit Classification Committee (ICC/UCC) at designated DDP facilities. The IDST must include, at a minimum, staff as required by existing departmental policy, including but not limited to the assigned CC-I responsible for coordinating the inmate's classification actions within the institution and ensuring access to specified programs, services, and activities; clinical staff assigned to monitor the inmate's adaptive support services; and the Facility Captain of the facility where the inmate is housed. The correctional officer assigned to monitor the inmate's daily activities and educational/work staff must participate when requested. In accordance with the *Department Operations Manual* Section 62010.9.1, the names of participants in decisions must be included on the CDC Form 128-G.
- 3. The IDST/ICC/UCC will periodically review the inmate's classification, custody, program, and adaptive support services based on the developmental disability category and individual need. The review will ensure provision of adaptive



support services indicated on CDC Form 128C-2. The IDST/ICC/UCC must identify/confirm specific adaptive support services that must be provided to the inmate, including prompting, coaching, and monitoring. The IDST/ICC/UCC may make the following recommendations; that staff assistance should be provided during specific correctional processes, modify an initial recommendation for adaptive support services, and/or change the developmental disability designation. All decisions, actions, and/or recommendations must be documented on CDC Form 128-G. Modifications to the developmental disability level must be documented on a CDC Form 128C-2 and referred to the CSR for review and endorsement.

4. Initial case review will be completed within 14 days of arrival at a designated institution. The initial case review to determine the program needs of a DDP inmate identified within the existing population of a designated institution will be completed within 14 days of the C&PR receiving a CDC Form 128C-2.

Routine case reviews must be completed by IDST/ICC/UCC at least annually for DD1/D1A inmates, at least every six months for DD2 inmates, and at least every three months for DD3 inmates. The IDST/ICC/UCC may review a case more frequently because of unexpected changes in adaptive functioning, medical/psychiatric concerns, enemy situations, etc., or to ensure that recommended program changes have been effective and that the inmate's functioning level has not deteriorated.

5. If, during a review, members of IDST disagree with the developmental disability designation or the adaptive support services required, IDST must refer the case and all relevant information to the Health Care Manager for resolution. If the disagreement involves issues of security, IDST will refer the case and all relevant information to the Warden for resolution.
6. Staff who supervise identified DDP inmates may consult at any time with IDST members, and IDST may initiate a program review as a result.

#### **D. APPEAL PROCESS FOR OBTAINING ACCOMMODATIONS**

An inmate/parolee identified as having a developmental disability may request an accommodation to access programs, services, activities, or grieve alleged discrimination through the CDC Form 1824 appeal process. The CDC Form 1824 must be readily available to inmates/parolees. Institutional/parole staff must provide assistance to all DDP inmates/parolees who require assistance in filling out CDC Forms 1824 and using the appeal process.

The inmate/parolee must submit the request for accommodation on a CDC Form 1824 to the Appeals Coordinator at the inmate's/parolee's facility or parole region. The Appeals Coordinator must verify the DDP inmates' eligibility to participate in the DDP. If health care staff locate verification of the disability within the Unit Health Record, health care staff shall note that such documentation exists and/or attach relevant copies of any CDC Forms 128C-2 and return the appeal to the Appeals

Coordinator. When an inmate/parolee files an accommodation or modification appeal on an inappropriate form, i.e., CDC Form 602, the Appeals Coordinator must attach a CDC Form 1824 and process the appeal according to the timelines in this section.

#### **I. APPEAL SCREENING PROCESS**

Upon receiving a CDC Form 1824, the Appeals Coordinator must review it to determine whether the appeal meets one or more of the following guidelines:

- ❖ An issue covered in this Remedial Plan.
- ❖ Allegation of discrimination on the basis of a developmental disability under the ADA.
- ❖ A request for access to a program, service, or activity based on a developmental disability.
- ❖ The appeal includes both ADA and non-ADA issues (respond to ADA issues first). The Appeals Coordinator will attach a CDC Form 602 to the CDC Form 1824 and respond to the non-ADA issues on the CDC Form 602 and advise the DDP inmate of the change.
- ❖ The appeal concerns an issue that substantially limits a major life activity, i.e., caring for one's self, performing essential manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

If the Appeals Coordinator determines that the appeal meets the above criteria, it will be assigned to the appropriate division head for review and response.

Inmates who participate in the DDP will not be required to provide documentation to verify a disability. The CDC staff will have ample access to records regarding an inmate's disability. The tracking system used in the institutions, along with information contained in the C-Files, Unit Health Records, and logs kept by the housing unit staff are resources. If an inmate is not in the DDP and has not been evaluated, then the appeal should be processed and the inmate referred for an evaluation. If the inmate claims that there is other outside information regarding his/her disability, and the inmate is not able to make the contacts to get the information, CDC staff, e.g., library technical assistant or correctional counselor, should assist the inmate in attempting to get this information. If the Appeals Coordinator determines that the appeal meets the above criteria, it will be assigned to the appropriate division head for review and response.

If the request otherwise meets the eligibility criteria of CCR, Title 15, starting at Sections 3084, the Appeals Coordinator must accept and log the appeal and assign it to the appropriate division head for the first level review described below.

If the Appeals Coordinator determines that the appeal does not raise an ADA issue, it must be recategorized to the appropriate category and processed as a

CDC Form 602 according to the provisions of CCR, Title 15, starting at Section 3084.

If the request is recategorized or rejected per CCR, Title 15, Section 3084.3 [exclusive of (c)(5)], a copy of CDC Form 1824 must be maintained on file in the Appeals Coordinator's office. Comments explaining the reason why the request was recategorized or rejected must be entered in the comments field of the Inmate Appeals Automated Tracking System (or similarly documented in the Regional Parole Reentry Unit).

#### **E. REQUEST FOR REASONABLE ACCOMMODATION (CDC FORM 1824)**

If an inmate/parolee files a request for accommodation or a disability-based discrimination complaint (CDC Form 1824) but does not provide documentation of his/her developmental disability, the Appeals Coordinator must forward all appeals requiring verification of the claimed disability to health care services staff, as outlined in Section III, D, 1. Health care services staff shall conduct a CASE evaluation and issue a CDC Form 128C-2.

#### **F. JUSTIFICATION FOR DENIAL OF REQUESTS FOR REASONABLE ACCOMMODATION**

##### **1. LEGITIMATE PENOLOGICAL INTEREST**

A request for accommodation may be denied when the denial is based on legitimate penological interests. The factors to be considered in determining whether the accommodation can be denied on this basis are those four factors articulated by the Supreme Court in *Turner v. Safley* (1987) 482 U.S. 78. They are: 1) whether there is a valid, rational connection between the denial and a legitimate governmental interest; 2) whether there are alternative means for the inmate to exercise his rights; 3) the impact of accommodating the request on security, staff, other inmates and the allocation of prison resources; and 4) whether the denial represents an exaggerated response to prison concerns.

In all evaluations of requests for reasonable accommodation, the health, safety, and security of all inmates, staff, and the public must remain overriding considerations.

##### **2. UNDUE BURDEN AND FUNDAMENTAL ALTERATION DEFENSES**

A request for accommodation may be denied when the requested accommodation would impose an undue financial or administrative burden on the agency, or would fundamentally alter the nature of the service, program, or activity. An accommodation is an undue financial burden when, in a cost-benefit analysis, its cost would be an unjustifiable waste of public funds. The Warden, Regional Parole Administrator, or (in the case of some medical accommodations) the Health Care Manager or designee, will make the determination that an accommodation would result in an undue burden or fundamental alteration.

### **3. DIRECT THREAT**

A request for accommodation may be denied when it poses a direct threat of substantial harm to the health or safety of the inmate, parolee, or anyone else, including the public.

### **4. EQUALLY EFFECTIVE MEANS**

A request for accommodation may be denied if equally effective access to a program, service, or activity may be afforded through an alternate method which is less costly or intrusive. Alternative methods, which may be less costly or intrusive to the existing operation/program, may be utilized to provide reasonable access in lieu of modifications requested by the inmate/parolee, so long as they are effective.

## **IV. INMATE PLACEMENT**

### **A. PLACEMENT GUIDELINES**

- 1.** All inmates identified as having a developmental disability must be referred to a CSR for review and endorsement.
  - a)** The CSR must endorse cases identified as DD1, D1A, DD2, or DD3 to one of the designated DDP institutions/facilities listed for each designated level of developmental disability.
  - b)** The CSR must not endorse cases where there is no CDC Form 128C-2 in the file.
  - c)** Inmates with developmental disabilities who have been reevaluated by clinical staff and whose disability level has changed; i.e., DD2 to DD1, must be referred to the CSR for review and placement. The clinician must prepare a CDC Form 128C-2 indicating current status.
  - d)** Due to the time required for the DDP verification process, RC staff shall not be allowed to process inmates identified with developmental disabilities within the short time frames required for Detention Processing Unit placement (abbreviated parole violator RC processing).
- 2.** In assessing placement, the CSR must consider the inmate's prevailing case factors, documented degree of developmental disability, vulnerability, and any additional health/psychiatric care placement concerns. The CSR must then endorse the inmate according to the following guidelines:
  - a)** Overriding medical/psychiatric care needs may dictate placement in a health care setting pending resolution of those needs; e.g., Psychiatric Services Unit (PSU), CTC or EOP. Placement in a health care setting and the associated treatment and/or services provided by staff assigned to the health care settings; e.g., PSU, CTC, or EOP, must take precedence over placement in a



DDP designated setting. Documentation of such treatment and/or services must be consistent with existing criteria and protocols.

Some inmates in the DDP may have concurrent physical or mental health needs. Inmates with developmental disabilities in specialized health care settings also have needs for adaptive supports and accommodations. Placement in a health care setting; e.g., EOP, CTC, or OHU, must not prevent the inmate from receiving recommended adaptive support services, as reflected on the corresponding CDC Form 128C-2, provided they do not conflict with required medical/psychological treatment. The provision of such services must be provided by staff assigned to the identified health care setting. When an inmate requires placement in a licensed health care facility, CCR, Title 22, must be followed. To initiate the health care transfer process for these inmates, the referring clinician must prepare a CDC Form 128-C, dated within 90 days of the CSR action, identifying the health care need(s) and related conditions necessitating the transfer, including the urgency of any required treatment.

Once the overriding medical/psychiatric needs have been met and the inmate no longer requires placement in the PSU, EOP, CTC, etc., the inmate will be endorsed and promptly transferred to a DDP designated institution as described in Section IV, C, of this plan.

- b)* An inmate identified as DD0 must not be endorsed to a Community Correctional Reentry Center (CCRC), Community Correctional Facility (CCF), or institutions as identified in Section IV, C, 1, pending reevaluation at a programming institution.

Once reevaluated by clinicians at a programming institution and found not to require adaptive supports (NDD), the inmate will be eligible for such placements.

- c)* A verified DD1, D1A, or DD2 inmate with no additional significant health care problems must be endorsed to a designated DDP institution/ facility.
- d)* A verified D1A or DD2 inmate must be housed in a designated DDP facility/building/unit/wing, consistent with safety and security needs.
- e)* Level I inmates with a DD1 or D1A designation may be endorsed to or housed in a Level I designated DDP facility as identified in Section IV, C, 2.
- f)* Level I inmates with a DD2 designation will not be endorsed to a Level I designated DDP facility until cleared by an IDST. They may be endorsed to or housed in a Level I facility/institution only after a period of observation by IDST and a case-by-case review of any specific safety and security concerns. This period of observation and review must determine that the inmate does not present a potential for victimization and can function safely under limited custody supervision.

- g) A verified DD3 inmate with no additional significant health care problems must be endorsed to a specialized program at CMF, CMC, or CCWF. A DD3 inmate needing to be housed in a Security Housing Unit (SHU) program will be housed in the PSU at CSP-SAC. Level IV male DD3 inmates will be housed at CMF.
  - h) Where an inmate identified as developmentally disabled has additional significant health/psychiatric care concerns or a permanent physical disability that impacts placement, CSRs must endorse the inmate to a designated DDP facility that is also a designated DPP facility and/or has an established health care system suited to treat the inmate's condition. When necessary, in exceptional cases where placement cannot directly meet both the medical/psychiatric and developmental disability needs of the inmate, Health Care Population Management staff and the Classification Services Unit must work together to address the inmate's dual needs in placing him/her.
3. Once the inmate is endorsed for DDP placement, any change in developmental disability will require CSR review and endorsement.
  4. Inmates initially identified as DD0 and subsequently reevaluated and determined to be NDD do not require CSR endorsement. The C&PR must modify the inmate's developmentally disabled designation on CDC Form 840 as appropriate.
  5. Inmates identified with Autism/Cerebral Palsy/Epilepsy must be placed according to existing health care criteria and as medically indicated.
  6. All efforts shall be made to house DDP inmates in DDP designated institutions while on out-to-court status, when necessary, consistent with safety and security concerns.

#### **B. CLASSIFICATION**

1. Classification procedures for DDP inmates must assure that they are not exposed to a significant risk of harm, abuse, or harassment.
2. Case management for all DDP inmates must comply with established classification procedures unless otherwise directed by policy contained within this plan.
3. The IDST/ICC/UCC at designated DDP institutions must review and record the continued appropriateness of a DDP inmate's placement on CDC Form 128-G, including the inmate's designated endorsement and any determination made regarding adaptive support services. Classification staff must assist DDP inmates to understand—to the best of their ability—issues involving classification, program assignments, safety and security, and elements of due process.
4. The IDST/ICC/UCC members must:
  - a) Use CDC Form 1882 (Initial Housing Review) to:

- (1) Review for single cell status and/or housing restrictions. A DDP inmate with a history of vulnerability must be housed in a designated building/unit/wing within the facility/institution. A DDP inmate with a history of vulnerability will not be housed in a cell or dorm/bay/section with an inmate with a history of sexual and/or other predatory behavior against "weaker individuals."
- (2) Ensure housing is based on the developmental disability designation.
- b) Ensure recommended adaptive support services are consistent with the designated category.
- c) Ensure work supervisors are notified of the inmate's adaptive support needs by CDC Form 128-B, CDC Form 128C-2, or CDC Form 128-G.
- 5. Initial/Annual Classification Committees must review the C-Files of all inmates housed in a designated D1A/DD2 building/unit to discern any history of sexual and/or other predatory behavior against "weaker individuals." Non-DDP inmates with a history of such behavior must be excluded from designated D1A/DD2 housing/building/wing. Identified DD2 inmates with a history of sexual and/or predatory behavior must not be housed in a cell or dorm/bay/section with an inmate who has victimization concerns, and may instead be single celled based on existing single cell screening criteria (CDC Form 1882).

### **C. DESIGNATED DDP FACILITIES**

Designated DDP facilities may be changed. The CDC will notify inmates' counsel 60 days in advance of any action to add or delete designated institutions.

- 1. **DD0:** Inmates initially identified as DD0 through the RC screening process will not be endorsed for placement in the following institutions pending the reassessment of adaptive skills:
  - ✓ California Correctional Center (CCC)
  - ✓ Centinela State Prison (CEN)
  - ✓ Folsom State Prison (FSP)
  - ✓ Northern California Women's Facility (NCWF)
  - ✓ Pelican Bay State Prison (PBSP)
  - ✓ Community Correctional Reentry Centers (CCRC)
  - ✓ Community Correctional Facilities (CCF)
- 2. **DD1, D1A, & DD2:** The following institutions are designated for permanent placement and housing of inmates identified as requiring placement under DD1, D1A, and DD2 criteria:

#### **D. CONSERVATION CAMPS**

1. Inmates who are verified as developmentally disabled (DD1, D1A, DD2, DD3) must not be precluded from assignment to a conservation camp based solely on their developmental disability. IDST/ICC/UCC at designated institutions must review these inmates for camp assignment on a case-by-case basis, after a period of observation and thorough evaluation of adaptive deficits and required adaptive support services. The evaluation will determine whether or not the inmate presents a potential for victimization, is capable of performing the essential functions of the assignment, and can function safely given the limited custodial supervision of a camp setting; e.g., escape potential, victimization, etc.
2. Before being placed in a camp, inmates initially identified as DD0 at the RC must both be re-evaluated by clinical staff within 120 to 210 days after completion of Phase III, and found not to require adaptive supports. A DD0 designation can only be applied by clinicians during RC processing.
3. When possible and without jeopardizing the fundamental nature of the program or legitimate penological interest, CDC may provide reasonable accommodations to allow participation.

#### **E. SPECIAL HOUSING PLACEMENT**

1. **ADMINISTRATIVE SEGREGATION UNIT:** The DDP inmates may be placed in an Administrative Segregation Unit (ASU) consistent with existing departmental procedures and inmate case factors. A CDC Form 128C-2 accompanying the CDC Form 114D, Order and Hearing for Placement/Retention in Segregated Housing, must include information obtained from the clinical staff member of the IDST (ICC at nondesignated institutions) regarding the inmate's participation in the DDP, and the support services required to function in the ASU environment. While in Administrative Segregation, the assigned psychologist will monitor the DDP inmates to determine whether they are functioning at an adequate level. If the DDP inmate's condition deteriorates, alternate placement and/or adaptive support services must be recommended. The assigned Medical/Psychiatric Officer of the Day must perform this function during weekends and holidays.

Periodic case review by the IDST (ICC at nondesignated institutions) will be done in accordance with CCR, Title 15, starting at Section 3335. Clinical staff must personally interview the inmate and provide necessary information to custody staff by a CDC Form 128-C within 24 hours of placement in the ASU. A Psychiatric Technician must make personal contact with each DDP inmate on a daily basis to monitor the inmate's adaptive functioning.

The ASU staff, using existing ASU processes (CDC Form 114A), must complete the documentation of routine adaptive support services provided to DDP inmates housed in ASU.

2. **SECURITY HOUSING UNIT:** Security Housing Unit (SHU) housing as stated in CCR, Title 15, Section 3341.5(c), must be provided in at least one designated



facility for inmates of each gender with developmental disabilities affecting placement. Periodic case review by the IDST (ICC at VSPW) will be done in accordance with CCR, Title 15, starting at Section 3335. A Psychiatric Technician must make personal contact with each DDP inmate on a daily basis to monitor the inmate's adaptive functioning.

- a) Identified DD1, D1A, and DD2 inmates who are assessed SHU terms must be placed in the VSPW (female) or COR (male) SHU. Clinical staff evaluations must be conducted and support services provided as recommended by CDC Form 128C-2. The IDST (ICC with assigned psychologist at VSPW) must ensure the provision of adaptive support services necessary for the DDP inmate to function at a level that is adequate in a SHU setting. The assigned psychologist will monitor the DD1, D1A, and DD2 inmates to determine whether they are functioning at an adequate level. A Psychiatric Technician must make personal contact with each DDP inmate on a daily basis to monitor the inmate's adaptive functioning. If a DD1, D1A, or DD2 inmate's condition deteriorates, placement and/or adaptive support services must be recommended.

Identified male DD3 inmates requiring SHU placement must be placed in a PSU—currently California State Prison, Sacramento.

Identified female DD3 inmates requiring SHU placement must be housed at CCWF in a secure setting and provided clinical services and adaptive support, as necessary.

The SHU staff, using existing SHU processes (CDC Form 114A), must complete the documentation of routine adaptive support services provided to DDP inmates housed in SHU.

3. **PROTECTIVE HOUSING UNIT:** The Protective Housing Unit (PHU) housing, as stated in CCR, Title 15, Section 3341.5(a), must be provided in at least one designated facility for inmates of each gender with developmental disabilities affecting placement.
4. **CONDEMNED HOUSING:** Condemned inmates with developmental disabilities affecting placement must be accommodated in existing units for each gender. Condemned inmates with developmental disabilities must receive access to the same type of programs as condemned inmates who are not disabled. Any exceptions to participation must meet the exclusions outlined in Section VII, A, 5, of this plan (inability to perform essential functions of program, misbehavior, refusal or failure to work, etc.).
5. **UNITED STATES IMMIGRATION AND NATURALIZATION SERVICE (USINS):** The IDST at designated institutions may recommend DD1, D1A, and DD2 inmates be housed at RJD for USINS processing. The DD3 inmates housed at CMF, CMC, or CCWF must be retained at their respective program institutions for USINS processing.

## **F. SUBSTANCE ABUSE TREATMENT AND CIVIL ADDICT PROGRAMS**

- 1. SUBSTANCE ABUSE TREATMENT:** The CDC must provide long-term, intensive, substance abuse treatment programs for male and female inmates with developmental disabilities comparable to those programs provided to nondisabled inmates.

- a) Currently, the SAP at SATF is designated to provide substance abuse treatment for male inmates with developmental disabilities. Male inmates who are verified as DD1, D1A, or DD2, and are eligible for the SAP shall be placed at SATF consistent with existing eligibility criteria.

The SATF IDST must review eligible inmates for SAP assignment on a case-by-case basis and complete a thorough evaluation of adaptive deficits and required adaptive support services.

Substance abuse treatment will be available for male inmates verified as DD3 at their programming institution.

- b) Currently, the SAP at CCWF is designated to provide substance abuse treatment for female inmates with developmental disabilities. All female inmate commitments verified as DD1, D1A, or DD2 who are eligible for the SAP, will be placed at CCWF consistent with existing case factors.

The CCWF IDST must review eligible inmates for SAP assignment on a case-by-case basis and complete a thorough evaluation of adaptive deficits and required adaptive support services.

Substance abuse treatment will be available for female inmates verified as DD3 at their programming institution.

- c) Other SAPs may be added as they become available in designated institutions.

- 2. CIVIL ADDICT PROGRAM:** The CDC must provide Civil Addict Program (CAP) placement for male and female civil addicts with developmental disabilities in accordance with existing criteria.

Inmates who are verified as developmentally disabled must not be precluded from assignment to a CAP based solely on their developmental disability. These inmates must be reviewed for CAP eligibility on a case-by-case basis, after a thorough review of adaptive deficits and required adaptive support services. The review will determine whether the inmate is capable of performing the essential functions of the assignment.

When possible and without jeopardizing the fundamental nature of the program or legitimate penological interest, CDC must provide reasonable modifications to allow participation.

## **G. COMMUNITY CORRECTIONAL REENTRY CENTERS**

1. Inmates with developmental disabilities must not be excluded from participation in the Community Correctional Reentry Center (CCRC) program based solely on their disability. The IDST/ICC/UCC must review these inmates for CCRC assignment on a case-by-case basis after a period of observation and thorough review of adaptive deficits and required adaptive support services. The review will determine whether the inmate is capable of performing the essential functions of the assignment, does not present a potential for victimization, and can function safely given the limited custodial supervision in the CCRC setting; e.g., escape potential, victimization, etc.
2. Before being placed in a CCRC, inmates initially identified as DD0 at the RC must be both reevaluated by clinical staff within 120 to 210 days of completion of Phase III and found not to require adaptive supports.
3. When possible and without jeopardizing the fundamental nature of the program or legitimate penological interest, CDC must provide reasonable accommodations to allow participation.
4. Inmates with developmental disabilities determined by IDST/ICC/UCC to be eligible for placement must be assigned to designated CCRC facilities. At least one designated DDP facility must be maintained in each of CDC's four parole regions to accommodate DDP inmates of each gender who meet established CCRC criteria.

### **5. DESIGNATED COMMUNITY CORRECTIONAL REENTRY CENTERS**

Currently, the following CCRCs have been designated for permanent placement and housing of inmates/parolees meeting the eligibility criteria. The CDC is currently seeking additional locations for placement of female inmates in Region I and Region II through the Request for Proposal process. Designated CCRCs are subject to change to enhance DDP placements or to replace designated facilities.

NAME OF CENTER	LOCATION	GENDER	REGION	HUB INSTITUTION
Turning Point, "G" Street	Fresno	Male	I	COR
Volunteers of America, Oakland West	Oakland	Male	II	SQ
Marvin Gardens	Los Angeles	Male	III	CIM
Working Alternatives	Los Angeles	Female	III	CIW
Volunteers of America, Long Beach	Long Beach	Male	IV	CRC
CMI Project Success	San Diego	Female	IV	CIW

#### **H. FAMILY FOUNDATIONS PROGRAM**

The Family Foundations Program (FFP) is an alternate sentencing program designed for pregnant and/or parenting women to serve 12 months in a residential treatment program with their children (under the age of six).

Female inmates with developmental disabilities who are eligible under departmental policy (as described in Sections VII, A-B, essential functions of programs) and meet the eligibility criteria for FFP placement per PC Section 1174 and CCR Section 3074.3 shall be placed in FFP facilities. When possible, and without jeopardizing the fundamental nature of the program or legitimate penological interest, CDC shall provide reasonable accommodations to allow participation. Eligible female inmates who are directly placed into the FFP by a court shall receive Phase I screening by FFP clinicians. The HCSD Clark Coordinator shall arrange for Phase II, III, and IV screening as needed. The FFP facilities currently available are:

- \* Santa Fe Springs
- \* San Diego

As new FFP facilities are activated, CDC will designate additional DDP facilities as appropriate.

#### **I. COMMUNITY PRISONER MOTHER PROGRAM**

The Community Prisoner Mother Program (CPMP) is a mother/infant program under which women inmates sentenced to state prison and who have one or more children under the age of six, reside together in a community treatment program. Female inmates with developmental disabilities who are eligible under departmental policy (as described in Section VII, A-B, essential functions of programs) and meet the eligibility criteria for CPMP placement per PC Section 3410 shall be placed in appropriate CPMP facilities. When possible, and without jeopardizing the fundamental nature of the program or legitimate penological interest, CDC shall provide reasonable accommodations to allow participation. Because inmates receive their adaptive support evaluations and have been initially screened for CPMP eligibility at RCs before being placed into a CPMP facility, the only screening that may be necessary, if at all, would be Phase IV. The HCSD will arrange for Phase IV screening as needed. Currently, the following CPMP facilities have been designated for placement and housing of eligible female inmates with their eligible children:

##### **NORTH**

- \* East Bay Community Recovery Project-Project Pride, Oakland
- \* Volunteers of America-Booth Family Apartments, Oakland

##### **SOUTH**

- \* Prototypes, Pomona



As new CPMP facilities are activated, CDC will designate additional DDP facilities as appropriate.

#### **J. RESTITUTION CENTER**

Inmates with developmental disabilities must not be excluded from participation in the Restitution Center. When possible, and without jeopardizing the fundamental nature of the program or legitimate penological interest, CDC must provide reasonable accommodations to allow participation. Male and female commitments who are verified as DD1, D1A, or DD2, and eligible for the Restitution Center, must be placed at the Restitution Center consistent with existing eligibility criteria.

#### **K. DD3 PROGRAM**

The DD3 Program will continue to be developed. The CDC will review the program with input from the court experts and inmates' counsel one year after the final Remedial Plan is filed with the court to determine whether it is adequate and effective.

#### **L. DEPARTMENT OF DEVELOPMENTAL SERVICES PLACEMENT**

The CDC reserves the right to refer DDP inmates to Department of Developmental Services (DDS) for consideration of placement in a Developmental Center under PC Section 2684. Such transfer request can be accepted or rejected by DDS only after an evaluation is completed by DDS. The CDC recognizes that DDS follows criteria set forth in Welfare and Institutions Code 4512 and any DDP inmate that does not meet that definition will not be considered for this type of transfer.

### **V. TRACKING**

#### **A. CLASSIFICATION TRACKING SYSTEM**

Inmates identified as developmentally disabled must be tracked in the Classification Tracking System (CTS) database by using CDC Form 839, Classification Score Sheet, and CDC Form 840, Reclassification Score Sheet, consistent with current policy. The CSRs (or other staff acting as the CSR) must enter one of the DDP level designations (NCF, DD0, NDD, DD1, D1A, DD2, or DD3 as indicated on CDC Form 128C-2) in the second or third Administrative Determinant field in the CSR section of CDC Form 839 or CDC Form 840. As a result, the CTS will identify the developmental disability designation and current housing location of each identified DDP inmate.

#### **B. INSTITUTION TRACKING**

The C&PRs and RC CC-IIIs must develop institution procedures and a database for tracking developmentally disabled inmates (DD1, D1A, DD2, DD3) at their institution based on CDC Forms 128C-2. This tracking database is to be kept in the Records Office readily accessible to the C&PR/RC CC-III. The C&PR/RC CC-III should distribute a DDP list to the appropriate areas. These procedures must include

annotating the DDP level designation on the Institutional Staff Recommendation Summary; on a CDC Form 816, Reception Center Readmission Summary; and on a CDC Form 128-G. This tracking document must be sent to the Health Care Manager on a weekly basis.

Custody staff in Receiving and Release must develop a list and send it to both the mental health department and C&PR for each DD0, DD1, D1A, DD2, and DD3 inmate who arrives at the institution.

### **C. INSTITUTION HEALTH CARE TRACKING**

The HCSD staff are responsible for tracking inmates identified as DD0. Health care staff must ensure inmates initially identified as DD0 are reevaluated within 120 to 210 days after completion of Phase III. The clinician can and should reevaluate the inmate sooner if there are observable signs of adaptive functioning deficits while in the GP of a nondesignated DDP institution. After reevaluating a DD0 inmate, health care staff must complete a CDC Form 128C-2 redesignating DD0s as NDD. This CDC Form 128C-2 will be forwarded to the C&PR. The C&PR will complete a CDC Form 840 annotating the NDD coding change in the administrative determinate section. If the inmate is designated as DD1, D1A, DD2, or DD3 the case shall be submitted to the CSR for placement into the DDP.

The HCSD Clark Coordinator staff will track and maintain data including the number and names of inmates screened at RCs (NCF, DD0, NDD, DD1, D1A, DD2, DD3); the number and names of inmates referred for screening at programming institutions (NCF, DD0, NDD, DD1, D1A, DD2, DD3); the results of the screenings; and the locations of identified DDP inmates.

## **VI. INSTITUTION ACTIVITIES AND SERVICES**

### **A. SAFETY AND SECURITY**

Legitimate safety and security concerns must take precedence over any accommodations afforded to DDP inmates and may result in the temporary or permanent suspension of any such accommodation to ensure the safety of persons, security of the institution/facility, or the integrity of an investigation. The CDC is not required to provide accommodations for inmates with developmental disabilities if the accommodation poses a direct threat to the safety and/or security of staff, inmates, or the public (see Section III, F).

### **B. HOUSING**

During the bus intake process at a receiving designated DDP facility, and before housing any inmates, custody staff will screen all inmates with developmental disabilities for single cell status and compatibility, using CDC Form 1882. Inmates identified as D1A/DD2 must only be placed in the building designated for D1A/DD2's. Custody staff must screen all inmates placed in any housing unit designated for D1A/DD2 inmates. Non-DDP inmates with a history of sexual and/or predatory behavior against "weaker individuals" must not be housed in those

designated buildings. The DD2 inmates with a history of sexual and/or predatory behavior under single-cell screening criteria (using CDC Form 1882) must not be housed in a cell/dorm/bay/section with inmates who have victimization concerns and may be single-celled based on single-cell criteria. Custody staff must review at least the following to ensure appropriate housing:

- ✓ The CDC Form 128-G, CSR Endorsement Chrono, for review of developmental disability category designation.
- ✓ The CDC Form 128C-2, for review of adaptive support services and/or indication of potential victimization.
- ✓ Enemy concerns (CDC Form 812, Notice of Critical Case Info-Safety of Persons, and CDC Form 812-C).
- ✓ Patterns of sexual and/or predatory behavior-especially within the past 12 months, such as:
  - ◆ History of physical or attempted assault and determined to be the aggressor (an act of mutual combat in itself is not considered predatory behavior).
  - ◆ History of possession of deadly weapons.
  - ◆ History of inciting disturbances, either verbal or written.
  - ◆ History of in-custody sexual offenses, i.e., rape, forcible sodomy, oral copulation.
  - ◆ Documented conduct that demonstrates a pattern of victimization or predatory/manipulative behavior.

This review should include, but not be limited to, the following documents: CDC Form 128-B; CDC Form 128-C; CDC Form 128-G; CDC Form 115, CDC Form 837, Crime/Incident Report; CDC Form 1882; Confidential File; CDC Form 174, Probation Officer's Report; CDC Form 1676, Parole Charge Sheet, etc.

### **C. IDENTIFICATION OF INDIVIDUAL ADAPTIVE SUPPORT SERVICES**

After a period of observation, inmates identified as being DDP will undergo a second clinical evaluation within 120 to 210 days after completion of Phase III. The second clinical evaluation will determine the adaptive support services the inmate will require. The second clinical evaluation must include a clinical interview with the inmate, gathering information from different individuals, and reviewing data from multiple sources (refer to Section II, B, 4). The results of this Phase IV evaluation must be recorded on a CDC Form 128C-2. The CDC Form 128C-2 must be distributed by clinical staff as follows: original placed in the "General Chrono" section of the inmate's C-file, and copies for the health record; C&PR or CC-III; assigned CC-I; DDP Counselor (CC-I), correctional officers assigned to the inmate's

housing unit who monitor the daily activities of developmentally disabled inmates; the Inmate Assignment Lieutenant and work supervisor; and the inmate.

Staff must ensure the information on CDC Form 128C-2 is not available to other inmates. Files containing such information are to be maintained in secure locations readily accessible to staff.

#### **D. STAFFING**

Where the designated buildings/units/wings have been identified to house D1A, DD2, or DD3 inmates, staff identified below will be added to existing staff normally working at designated DDP facilities. Designated DDP staff must be assigned the specific duties and functions listed below. The duties and functions must be clearly identified in post orders and duty statements.

##### **I. AMERICANS WITH DISABILITIES ACT COORDINATOR**

- \* Coordinate and monitor the institution's overall compliance with the Clark Remedial Plan.
- \* Establish a system to ensure communication between custody, clinical, and education staff regarding the needs of DDP inmates in the institution.
- \* Act as a liaison between the institution and Headquarters staff, i.e., ISOS, Legal Affairs Division, HCSD, and other agencies, such as the DDS and Regional Centers.
- \* Assume a leadership role in preparing the institution for Clark monitoring tours by the Prison Law Office; ensuring all pertinent staff are present for the tours.
- \* Assume a leadership role in preparing the institution for departmental compliance reviews.
- \* Ensure all staff receive training and follow-up training on the provisions of the Clark Remedial Plan.
- \* Monitor the institution's tracking system and ensure appropriate custody staff are aware of inmate needs under the Clark Remedial Plan.
- \* Review periodically the institution's ADA appeals and identify ADA issues raised and evaluate the institution's performance.
- \* At designated institutions, review, at least monthly, acts of serious misconduct involving inmates in the DDP. This review should involve discussion of any CDC Forms 128-A or CDC Forms 115 received by DDP inmates. The review should include inmate's C-File and medical records, discussion with DDP clinical staff, and the CDO and SA as appropriate. The purpose of the review is to examine patterns of serious misbehavior and to determine whether the inmate's behavior, in violating CDC rules, is related to the inmate's developmental disability. Patterns of serious rule violations by DDP inmates should be referred to IDST/ICC/UCC for review of the appropriateness of the inmate's current classification and placement.



## **2. CORRECTIONAL OFFICER**

- \* Monitor inmate daily activities.
- \* Participate in IDST.
- \* Provide support services as directed by IDST.
- \* Maintain frequent contact with the inmate.
- \* Contact inmate work assignment supervisor on a regular basis.
- \* Monitor canteen activity on a regular basis.
- \* Periodically inventory property, including canteen.
- \* Provide staff assistance as needed.
- \* Provide additional safety and security resources.
- \* Document prompts, contacts, and services provided in the Unit Logs, etc.
- \* Consult with other custody staff as necessary to determine additional needs.
- \* Provide orientation to DDP inmates, as necessary.
- \* Communicate with and assist the DDP Counselor (CC-I).
- \* Document contact with medical staff.

## **3. THE DDP COUNSELOR (CC-I)**

- \* Coordinate and monitor all developmentally disabled classification activities.
- \* Provide orientation to DDP inmates, as necessary.
- \* Participate in IDST for all D1A, DD2 or DD3 inmates.
- \* Provide IDST relief coverage for absent CC-I of DD1 inmates, as needed.
- \* Serve as a resource to the ADA Coordinator.
- \* Serve as a resource to other counselors who manage DD1 inmates.
- \* Provide SA duties as required.
- \* Assist DDP inmates in the completion of forms and documents.
- \* Assist DDP inmates with issues of classification, program assignments, appeals, and elements of due process.
- \* Ensure recommended adaptive services are provided.
- \* Maintain logs and records of issues relative to DDP inmates.
- \* Communicate with work supervisors regarding DDP inmates' progress.
- \* Provide additional safety and security resources, as needed.
- \* Advise the inmate of services available through DDS.
- \* Maintain confidentiality of all information about developmentally disabled inmates from all inmates.

- \* Ensure information about developmentally disabled inmates is included on CDC Form 611, Release Program Study; and BPT Form 1135A.
- \* Ensure the Regional Center referral forms are forwarded to the respective Regional Centers and attached to CDC Form 611.
- \* Document contact with medical staff.
- \* Upon notification from the LTA, inform the court of an inmate's developmental disability.
- \* Inform other CC-Is with DDP inmates on their caseload of the notice to the courts.
- \* Provide the court with information related to the inmate's developmental disability when necessary.

#### **4. DEVELOPMENTALLY DISABLED PROGRAM TEACHER**

- \* Participate in IDST initially to help establish and later to review the program.
- \* Communicate with and assist the DDP Counselor (CC-I).
- \* Provide and complete education forms during classification committees.
- \* Ensure that a current TABE Complete Battery Reading score is available.
- \* Ducat inmate for testing.
- \* Interview and test inmate with curriculum based testing.
- \* Identify educational needs of inmate.
- \* With education supervisor approval, determine program design and method to provide services.
- \* Collaborate with classroom teacher and other education staff.
- \* Provide support services as required.
- \* Provide resources, materials, equipment and supplies.
- \* Schedule Student Study Team (SST) meetings and notify all necessary members.
- \* Complete quarterly review to record progress on short term goals; complete CDC Form 128-B and attach to the classroom teacher's CDC Form 128-E, Education/Vocational Chrono.
- \* Schedule Individually Tailored Education Plan (ITEP) periodic reviews and evaluations.
- \* Address needs of ITEP.
- \* Document progress/performance on CDC Form 128-B and CDC Form 128-E.
- \* Complete and generate necessary DDP reports.
- \* Provide educational services as described in Section VII, D.
- \* Assist in coordinating DDP training for education staff.

- \* Develop program evaluation criteria.
- \* Maintain necessary ITEP data of DDP inmates.

#### **5. LIBRARY TECHNICAL ASSISTANT**

- \* Communicate with and assist the DDP Counselor (CC-I).
- \* Communicate with other library staff about DDP library concerns.
- \* Communicate with DDP education staff.
- \* Interview DDP inmate and identify Law Library and leisure reading needs.
- \* Provide reasonable access to forms, regulations and procedures in the library.
- \* Ducat inmate for law library use as appropriate.
- \* Ensure DDP inmates understand—to the best of their ability—how to gain access to the “door of the court.”
- \* Provide reading and scribing law library services as needed.
- \* Document whatever services are provided to developmentally disabled inmates on CDC Form 128-B, Library Log, etc.
- \* Notify the CC-I of the need to inform the court of an inmate’s developmental disability.
- \* Provide the ADA Coordinator with the information being forwarded to the court.
- \* Provide orientation to all DDP inmates for Law Library and other library services.

#### **6. CLINICAL STAFF**

- \* Conduct four phase screening process on inmates referred for DDP evaluation.
- \* Complete CDC Form 128C-2 indicating the DDP level and initial adaptive support services required.
- \* Conduct a Phase IV evaluation to determine specific adaptive support services and document this on a CDC Form 128C-2.
- \* Track inmates participating in the DDP screening process.
- \* Participate in IDST.
- \* Communicate with and assist the DDP Counselor (CC-I).
- \* Document exchange of information between custody and clinical staff in regards to DDP inmate’s behavior.
- \* Complete follow-up clinical evaluations as needed.
- \* Assist custody staff in developing and implementing the DDP and support services.

- \* Review adjudicated disciplinary actions (CDC Form 115) with the Chief Disciplinary Officer (CDO).
- \* Provide support to non-DDP designated institution staff when questions arise concerning a potential DDP inmate.
- \* Assist in pre-release planning.
- \* Monitor DDP inmates placed in ASU.
- \* Evaluate DDP inmate's ability to perform the essential functions of a camp and/or other program assignment.
- \* Provide two-hour Clark Overview Training as part of New Employee Orientation.

#### **E. CONFIDENTIALITY**

The DD designation of an inmate placed in the DDP is confidential. In accordance with CCR, Title 15, Section 3370, no inmate or parolee shall access another's case records file or file material. Furthermore, and in accordance with the same section, no inmate or parolee may access confidential information in or from their own case record file. Confidential information includes:

- \* Information that, if known to the inmate, would endanger the safety of any person.
- \* Information that would jeopardize the security of the institution.
- \* Medical or psychological information that, if known to the inmate, would be medically or psychologically harmful to the inmate.
- \* Information provided and classified as confidential by another government agency.

#### **F. COUNT AND MOVEMENT**

Each designated DDP institution and facility must review local policies and procedures to ensure DDP inmates are provided with necessary prompting so that they comply with count time expectations, respond to visits, keep work/school schedules, and respond to meals and other movement calls. Local operational procedures must reflect specific count and movement procedures for DD2 and DD3 inmates. Post orders for staff assigned to designated buildings/units/wings that house DD2 or DD3 inmates must reflect the specific count and movement procedures.

#### **G. NOTICES, ANNOUNCEMENTS, AND ALARMS**

- 1. WRITTEN MATERIALS:** Each designated DDP institution/facility must ensure that CCR notices, orientation packages, announcements, and similar printed materials are accessible to inmates with developmental disabilities. Institution staff must provide the necessary assistance to all DDP inmates on a case-by-case basis to ensure that those who have difficulty reading and/or communicating in writing will be provided reasonable access to forms, regulations, and procedures. Local operational procedures must reflect specific notices, announcements, and alarm



procedures for DD2 and DD3 inmates. Post orders for staff assigned to provide such services to DD2 and DD3 inmates must reflect these specific procedures.

2. **VERBAL ANNOUNCEMENTS:** Each designated DDP institution/facility must ensure effective communication is made with inmates with developmental disabilities regarding public address announcements and reporting instructions, including those regarding visiting, yard release and recall, count, lock-up, and unlock, etc. Local operational procedures must reflect specific requirements for verbal announcements impacting DD2 or DD3 inmates. Post Orders for staff assigned to provide such services for DD2 or DD3 inmates must reflect these procedures, i.e., prompts for visits or hearings, if inmate does not respond.

#### **H. SPECIAL IDENTIFICATION**

Custody staff assigned to units housing DDP inmates must maintain a separate roster with photo identification for each DDP inmate and corresponding CDC Forms 128C-2 in a secure location. Staff must use this information to identify DDP inmates and provide for their special needs. Inmates must not have access to this information.

#### **I. EVACUATION PROCEDURES**

1. Local evacuation procedures must be adopted at each designated DDP facility to ensure the safe and effective evacuation of inmates with developmental disabilities. Local operational procedures must reflect specific evacuation procedures for DD2 or DD3 inmates. Post Orders for staff providing such services for DD2 or DD3 inmates must reflect these procedures.
2. All DDP inmates will be provided instructions for evacuation/emergency procedures during orientation before initial classification at designated institutions.

#### **J. INMATE SERVICES AND ACTIVITIES**

Inmates must be provided reasonable accommodations as necessary to ensure access to prison services and activities in a manner consistent with their custody and privilege group designation.

1. **ORIENTATION PROCESS:** Upon arrival at a designated DDP institution, or facility, DDP inmates must be provided orientation by designated staff who have been trained to communicate with developmentally disabled individuals. The orientation process and information provided must be documented on a CDC Form 128-O, Document Receipt Chrono, or a CDC Form 128-B. Orientation must comply with provisions of CCR, Title 15, Section 3002 and must include information regarding all prison services and activities; e.g., the appeals process, emergency procedures, mail processing, visiting, work assignments, recreation, religious services, food services, library access, etc. It must also include information about which staff are available to provide needed assistance; e.g., Appeals Coordinator and CC-I are available to assist with submitting appeals, the

evacuation procedures, count and movement. Local operational procedures and affected staff post orders must reflect orientation procedures for DDP inmates.

2. **VISITING POLICY:** Reasonable accommodations must be afforded to DDP inmates in order to aid their full participation in visiting as provided in CCR, Title 15, starting at Section 3170; e.g., personal notification by staff, as needed. This policy applies to contact, noncontact, and family visiting.
3. **RECREATION:** Inmates with developmental disabilities must be provided an equal opportunity to participate in constructive athletic and recreational programs under safe and secure conditions, consistent with the inmate's custody level, classification, work/training assignment, privilege group, and security requirements consistent with CCR, Title 15, starting at Section 3220.
4. **RELIGIOUS SERVICES:** Reasonable efforts must be made to provide for the religious/spiritual welfare of interested inmates with developmental disabilities consistent with CCR, Title 15, starting at Section 3210.
5. **FOOD SERVICES:** Staff must ensure DDP inmates receive prompting to attend meals, as needed.
6. **LIBRARY ACCESS:** Each DDP inmate must have access to a library, law library, and related services, consistent with CCR, Title 15, starting at Section 3120. Designated staff at designated DDP institutions who have been trained to communicate with developmentally disabled people must provide library services. Services may include: provision of forms—including assistance in reading and scribing them, identifying research materials and providing them to the inmate, access to electronic or inmate readers, and submission of forms/documentation to the court. Staff must not provide legal advice or assistance and will not conduct legal research.
7. **TRANSPORTATION:** The developmental disability designation must be indicated on a CDC Form 135, Inmate Transfer Record, or a CDC Form 1018, Notice of Return to Prison, to alert Receiving and Release and Transportation staff of a DDP inmate's status. When requesting bus seats for DDP inmates, RC and nondesignated institutions staff will indicate the developmental disability designation in the "Comment/Purpose" field on the Distributed Data Processing System/Interim Transportation Scheduling System. This process will allow the Transportation Services Unit to prioritize the request and expedite the transfer of the DDP inmate.
8. **MAIL:** Each inmate with developmental disabilities must be informed of the plan of operation for sending and receiving mail, consistent with CCR, Title 15, starting at Section 3130.
9. **RELEASE PROGRAM STUDY:** Before an inmate's release from custody, the assigned CC-I must use CDC Form 611 to provide documentation and notice to parole field staff of special needs related to the inmate's developmental disabilities; e.g., referral to DDS.

- a) The institution staff will emphasize to parole staff the importance of referring a DDP inmate to an appropriate Regional Center for an assessment upon parole, to assist with reintegration. If the inmate agrees to the referral and assessment, the CC-I will assist the inmate in completing the application form and mailing it to the Regional Center. If the inmate refuses the referral, the inmate will be advised by the assigned parole unit of the potential eligibility for Regional Center services and advised to apply for an assessment.
- b) The C&PR/CC-III will notify parole field staff at least 210 days before the DDP inmate's parole date, by CDC Form 611 process, if an inmate has a verified developmental disability and what the inmate's specific needs are. CDC Form 611 and copies of the latest CDC Forms 128C-2 must be forwarded to the parole region to ensure sufficient time for reentry processing. Such forms should be transmitted in accordance with existing policies and procedures. The CDC Form 611 must also indicate whether the inmate has refused the referral process or been referred to a Regional Center for assessment and, if so, the outcome-and the individual treatment plan, if any.
- c) In cases where a parolee's status is Return to Custody, a CDC Form 1121 must be completed. The latest copy of CDC Form 128C-2 must be attached to the CDC Form 1121 and forwarded to the appropriate Parole Region. The inmate's developmental disability category must be written on the CDC Form 1121 in the Reporting Instructions Section.
- d) The C&PR/CC-III will notify the Regional Center within 210 days before the impending release of an inmate with developmental disabilities.
- e) The C&PR/CC-III and the institution Health Care Manager must facilitate the Regional Center assessment of an inmate with developmental disabilities.

#### **K. MEDICAL CARE**

Inmates with developmental disabilities must have access to necessary medical, psychiatric, and dental care in accordance with CCR, Title 15, starting at Section 3350.

- 1. The assigned correctional officer, CC-I, and medical staff at designated DDP institutions will be responsible for assisting DDP inmates in obtaining emergency and routine health care. Assistance may include:
  - a) Assistance with completion of sick call requests, including assistance with requesting and obtaining new prescriptions and refills.
  - b) Prompt/escort to medical appointments.
  - c) Referral to medical staff if the inmate appears to have symptoms that may require medical care.

2. Medical staff must be trained to communicate with developmentally disabled individuals and to gather information necessary to provide medical/psychiatric/dental services.
3. The inmate may accept or decline recommended treatment. The decision to refuse treatment is reversible at any time and must not prejudice future treatment. The inmate must not be deemed incapable of refusing or providing informed consent to treatment solely because of his/her developmental disability. Refusal to accept recommended treatment must be documented on a CDC Form 128-B or a CDC Form 7225, Refusal of Examination and/or Treatment Form.

**L. DISCIPLINARY PROCESS**

1. To assist DDP inmates in conforming with departmental rules and regulations, all staff who interact with this population must closely monitor the inmates' daily activities. An employee may attempt to address problematic behavior informally; e.g., direct instructions, prompting, verbal counseling. The employee must ensure the inmate understands (to the best of his/her ability) the consequences of continued misconduct. If this informal intervention successfully corrects the behavior, no further disciplinary action is required. If the inmate continues the misconduct and informal intervention was not successful—or the behavior was of a serious nature—the misconduct must be handled in accordance with CCR, Title 15, starting at Section 3310. The method of discipline may include:

- \* Issuing a CDC Form 128-A, Chrono-Custodial Counseling
- \* Issuing a CDC Form 115

The staff member observing the misconduct must take into consideration the severity of the inmate's disability and the inmate's need for adaptive support services when determining the method of discipline.

2. To assure a fair and just proceeding, if the misconduct is recorded on a CDC Form 115 (administrative or serious rules violations), all DDP inmates must be assigned an SA. The SA can be any staff who have received training referenced in Section X, D, and training in due process hearings. The assigned SA may be assisted by a bilingual aide, reader, mental health clinician, etc., as necessary. In accordance with CCR, Title 15, Sections 3318(b) and 3315(d)(2), the SA must:

- \* Inform the inmate of his/her rights and ensure that he/she understands the disciplinary procedures to the best of the inmate's ability.
- \* Help the inmate to prepare for the disciplinary hearing.
- \* Represent the inmate's position at the hearing.
- \* Ensure the inmate's position is understood.
- \* Ensure the inmate understands—to the best of his/her ability—the decisions reached.



- \* Provide the hearing official with information related to the inmate's developmental disability and the adaptive support services required.
  - \* Be present at the disciplinary hearing and all interviews related to the disciplinary process.
  - \* Refrain from giving legal counsel or specifying the position the inmate should take in any disciplinary proceeding.
  - \* Additional assistance as appropriate.
3. The hearing official must evaluate the circumstances of the misconduct and all evidence and information presented in the disciplinary hearing, including the inmate's identified adaptive support services, when determining the inmate's guilt or innocence.
  4. The SAs and hearing officials must be trained to communicate with DDP inmates. The SA must complete courses in the Overview of Developmental Disabilities, Staff Assistance for Inmates with Developmental Disabilities, and the Overview of the Inmate Disciplinary Process.
  5. If the inmate is found guilty of a rules violation, the Chief Disciplinary Officer (CDO) must review the completed CDC Form 115 in accordance with CCR, Title 15, Section 3312.
  6. The CDO must consult with the clinician assigned to DDP inmates regarding the findings and disposition of the hearing before taking action. The clinician assigned to DDP inmates must provide input as to the effectiveness of the disposition in correcting the inmate's behavior. Both the CDO and clinician must sign the completed CDC Form 115. By signing the CDC Form 115, the clinician is not endorsing the disposition of the CDC Form 115, but only acknowledging the consultation. The need for the CDO to consult with clinicians concerning the disposition of CDC Forms 115 for inmates with developmental disabilities must be incorporated into applicable Lesson Plans, Post Orders, and Operational Procedures of all designated institutions.

In accordance with CCR, Title 15, Section 3313(c), the classification of a CDC Form 115 may be changed—before, during, or after a disciplinary hearing—from serious to administrative. Other decisions for CDC Forms 115 can be to:

- \* Affirm, reverse, or modify the disciplinary action and/or credit forfeiture.
- \* Order a different action or a different method of discipline.
- \* Dismiss the charge.
- \* Order a rehearing of the charge.
- \* Refer the charge for criminal prosecution.
- \* Order a combination of any of these actions.

If a DDP inmate exhibits ongoing behavioral problems, institution clinical staff shall refer the case to HCSD Clark Coordinator for assistance in assessing the causes of the behavior and creating an intensive behavioral modification and treatment plan.

The ADA Coordinator will review CDC Form 115s at least monthly to identify any patterns of misbehavior that may be related to the DDP inmates' disabilities (see Section VI, L).

## **VII. INMATE EDUCATION AND WORK ASSIGNMENTS**

### **A. ASSIGNMENT**

1. It is departmental policy to ensure that inmates with developmental disabilities are afforded access to education, vocational, work, and other programs available to nondisabled inmates. Access must include reasonable accommodations such as prompts, graduated supervision, training, etc. Working with the DDP Counselor (CC-I) and the DDP Teacher, IDST will review at least once each year the education, vocational, and work assignments of inmates in the DDP. This review is designated to ensure that no artificial barriers have been erected to exclude inmates from participating in particular classes or programs. Modification of reading prerequisites, terminal objectives for a class or program, and other accommodations are essential if inmates with developmental disabilities are to have equal access to academic, vocational, and work assignments.
2. Inmates must be evaluated by IDST/ICC/UCC at designated DDP institutions for eligibility to participate in an education, vocational, work, or other program on a case-by-case basis. Eligibility to participate in any program depends upon the inmate's ability to perform the essential functions of the program with or without reasonable accommodations.
3. Inmates with developmental disabilities assigned to an education, vocational, work, or other program may receive additional supervision and training to help them meet the requirements of the assignment. Accommodations may include oral rather than written tests, lower production expectations, expanded time frames for completion of projects, etc.
4. All staff who interact with DDP inmates/parolees must receive training about developmental disabilities, including general information about adaptive deficits, adaptive support services, and effective communication.
5. Evaluation of an inmate's removal from a program assignment must be done on a case-by-case basis, and will take into account a number of factors including the inmate's ability to perform the essential functions of the program, the inmate's misbehavior and refusal or failure to work as directed. Whenever an IDST/ICC/UCC excludes an inmate from an assignment, the exclusion must be based on one of the following criteria (see Section III, F, for expanded explanation of them):

- \* The inmate's inability to perform the "essential function" of the assignment as documented by the work supervisor on a CDC Form 128-B noting the specific essential function that the inmate cannot perform.
- \* The inmate's assignment would pose a risk to the safety of any inmate, staff, or the public; the security of the institution; or harm legitimate penological interests.
- \* Accommodation for the assignment would result in a fundamental alteration to the program; i.e., the nature or business of the program would not be met as intended.
- \* The reasonable accommodation required for the assignment presents an undue financial or administrative burden.

## **B. ESSENTIAL FUNCTIONS**

Essential functions are the basic duties/requirements of services, assignments, or programs an inmate performs or receives. This does not include the marginal duties of the position, services, assignments, or programs. Duties and/or requirements must be examined to determine which tasks are essential and which are nonessential. Institutions must be careful not to establish eligibility criteria that screen out, or tend to screen out, inmates with developmental disabilities who have the ability to participate in the programs being offered. Education/work assignments must be defined to take into account functioning limitations; e.g., difficulty/complexity of each task, lack of initiative, etc.

## **C. ASSIGNMENT MONITORING**

The IDST/ICC/UCC actions at designated DDP institutions must be periodically monitored to ensure assignments of inmates with developmental disabilities are nondiscriminatory.

## **D. EDUCATION PROGRAM**

### **1. ACADEMIC ASSIGNMENTS**

Appropriate classroom education must be provided for eligible inmates with developmental disabilities at designated DDP institutions. All instructional (educational) staff will have credentials issued by the California Commission on Teacher Credentialing. Such credentials will allow instruction with an adult population. One instructor at each designated DDP facility must have a Special Education Credential. This instructor must be assigned as a Developmentally Disabled Program Teacher (DDPT) and shall provide consultation and assistance to other education staff as necessary.

Education shall include, but is not limited to, the following: education program for educating inmates with developmental disabilities, curriculum based testing, a basic literacy program, and individually tailored education programs as may be required. Education programs, currently in place in each of the institutions, have a

competency based curriculum that is individually tailored to meet the educational needs of the inmate. It consists of seven major academic areas and a wide variety of vocational programs. Included in the academic curriculum are the following courses of study: Reading/Writing, Listening/Speaking, Life Skills, Arithmetic, Mathematics, GED preparation, and High School. These courses are divided into certification units and individual competencies. Each inmate will be assessed using this curriculum to determine what level of instruction is needed to ensure progress. As inmates complete and master the individual competencies, certifications (groups of related competencies) are mastered and completed, and the inmate progresses to more difficult or complex tasks.

The Reading/Writing course of study includes the competencies and skills necessary for a basic literacy program. Additionally, each institution has specific literacy programs that are available to all eligible inmates. Some of these include Laubach tutors, peer-tutoring programs, Computer Assisted Instruction Laboratories, and televised distance learning programs.

- a) **Identification:** IDST/ICC/UCC at designated DDP facilities will determine the academic/vocational, PIA, or other work program placement for DDP inmates.
- b) **Classification:** Staff from the education program will participate in IDST/ICC/UCC to assist the committee in arriving at an assignment for the DDP inmate to ensure an education and/or work assignment. Program decisions will be documented on a CDC Form 128-G and a Developmental Disability Program Placement Form, if assigned to an educational assignment. The education representative will be responsible for completing and distributing the Developmental Disability Program Placement Form. The placement form will prioritize placement in a program and will be the first step in the assessment process.
- c) **Assessment:** Once it has been determined by IDST/ICC/UCC that the inmate wants and/or needs an educational program, the Inmate Assignment Office will place the inmate in an appropriate level Adult Basic Education or Vocational program.
  - (1) All inmates assigned to Education will have a TABE Complete Battery Reading score. Scores from this test will determine the level of Adult Basic Education class appropriate for the individual.
  - (2) Education staff will review all relevant information in the student's C-File to assist in identifying student educational needs; e.g., court, probationary, medical, school, and/or any other records as needed. If educational records are not available, education staff shall assist the inmate in completing a request for records from the last school attended and/or other schools, as necessary, to determine the student's educational history.



(3) Assigned education staff will have up to ten days from the date the inmate is assigned to complete all testing and assessments, using at least two assessment tools in addition to the TABE test. The assessment tools must include the Comprehensive Adult Student Assessment System (CASAS) and either the Brigance or Woodcock-Johnson. Behavioral observations of actual classroom and housing performance and inmate goals should also be considered. The assessment can be done while the inmate is waiting for placement. Ongoing testing and assessment is conducted using the CDC competency-based curricula and documented using the Competency Recording System.

d) **Student Study Team:** The Student Study Team (SST) will consist of the DDPT, the classroom teacher, an Education Supervisor and the inmate. The CC-I will be available for consultation, when appropriate. Its purpose will be to develop the ITEP and to discuss and record all needed accommodations for the inmate's educational needs. This team must meet initially within ten days of assessment and placement in an education program, annually for review and reevaluation of goals and plans, and as needed throughout placement. The classroom teacher and/or the DDPT may request an SST meeting whenever there are extreme behavioral issues that must be addressed to prevent removal from the Education assignment. Educational program revisions must be reviewed by the SST. Any member not in agreement with the SST's decision must submit, in writing, a statement of reason for objecting to the plan. If the inmate is not satisfied with the plan, the inmate may submit an appeal by CDC Form 602, Inmate/Parolee Appeal Form, or CDC Form 1824. The inmate may also request additional information.

e) **Individually Tailored Education Plan:** All inmates who have been identified as developmentally disabled and assigned to Education programs will require development of an ITEP. Its purpose is to identify and document the educational and behavioral strengths and weaknesses of the DDP inmate through cognitive testing, observation, and inmate feedback. The ITEP establishes the goals that appropriately address the areas identified and makes accommodations to the education program that enables the inmate to progress. It will be developed after placement in an education program (Academic or Vocational) and reviewed and reevaluated.

(1) One of the tests administered will be the CASAS. This test provides learner centered curriculum management, assessment and evaluation systems in education and training programs. The CASAS is an assessment system that includes standardized multiple choice, performance-based, and alternative assessment instruments to measure life skills, basic skills, and employability skills. All assessment is linked to competencies and instructional materials that focus on learner's goals.

(2) The second assessment tool can be either the Brigance or Woodcock-Johnson. These tests will determine the baseline level of functioning through academic testing and behavioral observation. The results will

identify the needs of the inmate to achieve success and be documented on the ITEP Student Information Form by the classroom teacher and/or work supervisor.

(3) Following the development of the ITEP, the classroom teacher will implement the recommended reasonable accommodations.

(4) Periodic Review and Evaluation:

(a) A quarterly review must be done by the DDPT. This review will document the inmate's progress on short-term goals. The review will be reported on CDC Form 128-B and be attached to the classroom teacher's CDC Form 128-E report.

(b) The ITEP must be reviewed at least every six months by the SST to reevaluate goals, measure student progress, and develop new goals as needed.

(c) Every three years, a full assessment must take place before the annual review.

f) Supplemental reasonable accommodations provided to academic and vocational students with developmental disabilities will be done on a "pull-out" basis. The "pull-out" basis allows for a student to be pulled out of the regular classroom activity to a different location within the institution or education area. This permits the student to remain "mainstreamed" in regular education programs while receiving specific assistance for the identified needs. The DDPT will provide this service in all program areas of the institution. The quota exemption for the DDPT allows flexibility for the teacher to move from one program area to another and allows the teacher to work with the inmates individually and in small groups, thereby reducing the inmate/teacher ratio as needed. The frequency and duration of "pull-outs" must be determined in the ITEP.

g) All education staff must ensure that the information on all education records (e.g., ITEP, CDC Form 128-E; CDC Form 128C-2; or any other record with information regarding the inmates' developmental disability) is not available to other inmates, and that files containing these documents are kept in secure locations.

## **2. VOCATIONAL ASSIGNMENTS**

One of the goals of vocational education is to provide eligible inmates with an opportunity to learn entry level employment skills. The inmate, with or without reasonable accommodation, must meet the eligibility criteria of the vocational assignment as defined in the course description and be able to perform the essential functions of the assignment. Educational staff must be careful not to establish eligibility criteria that screen out, or tend to screen out, inmates with developmental disabilities who have the ability to participate in the programs

offered. Vocational programs may be considered regardless of reading level if the inmate/student has the capacity to benefit from a program based on individual need and assessment. All procedures, forms, and assessments used when an inmate is assigned to an academic program may be applied to vocational assignments; i.e., done on a "pull-out" basis.

Vocational programs are also competency based and afford inmates a wide range of instructional opportunities ranging from acquiring basic remedial skills to advanced certification, and/or licensing. Specifically, all vocational programs provide for basic instruction and skills development through a progressive series of certification units, much like the academic curricula. Several vocational programs are well suited to remedial basic skills while affording career and employability training as preparation for reentry into the job market. For example, Janitorial Services, Landscape Gardening, Office Services and Related Technology, and several of the Vehicular Repair curricula provide a remedial or basic skills instruction under close supervision that allows for mastery and progress at the inmate's own pace through individualized instruction.

All vocational programs also provide safety and related training on a weekly basis to ensure workplace awareness and heighten shop/program safety as it pertains to the working environment. Similarly, literacy training is also provided on a daily basis, in conjunction with the regular curricular offerings, to promote reading and comprehension development, as well as reinforcing the instructional process within the curricular area or subject. The instructional process also provides additional assistance on a case-by-case basis to meet each inmate's specific needs.

## **VIII. PAROLE FIELD OPERATIONS**

### **A. POLICY**

It is the policy of CDC to provide reasonable accommodation to parolees with developmental disabilities consistent with established departmental policies and procedures. Parole planning and supervision must be conducted on a case-by-case basis to meet the unique needs of the parolee while protecting the legitimate penological interests of CDC. Parole staff who supervise parolees identified as developmentally disabled must receive training in effective communication with developmentally disabled individuals, as well as the role of Regional Centers and the services they provide. This training is intended to help parole staff recognize, communicate with, and refer parolees for clinical assessment within CDC.

### **B. RELEASE PROGRAM STUDY**

The institution C&PRs will notify parole field staff, by CDC Form 611, of any inmate with a verified developmental disability, as well as identified adaptive deficits and prescribed support services. The CDC Form 611 and copies of the latest CDC Forms 128C-2 must be forwarded to the parole region in accordance with existing policies and procedures for reentry processing. The CDC Form 611 must also indicate the inmate's Regional Center status; i.e., the inmate has received

services from the Regional Center in the past, requested a referral to and assessment by Regional Center Staff, refused to be referred for assessment, etc. At the time of parole or release, all DDP parolees who have not previously been evaluated by a Regional Center or who meet the basic criteria of the Regional Centers must be advised by parole staff of their potential eligibility for Regional Center services, and the procedures to request an assessment by the Regional Center.

In the event a DDP inmate has an imminent release date without having a CDC Form 611 processed, a CDC Form 611B, Oral Release Program Study, or CDC Form 1121, Notice of Release Date and Residence Plan, will be processed. The C&PR/RC CC-III shall be responsible for faxing all supporting documents; e.g. CDC Form 128C-2, directly to the Parole Regional Reentry Coordinator (ADA Coordinator) for processing. The C&PR/RC CC-III shall also contact the parole regional ADA Coordinator by telephone notifying him/her of the imminent release date and the adaptive support services needed. The contact with the parole regional ADA Coordinator shall be documented on a CDC Form 128-B.

#### **C. ORIENTATION AND PAROLE EXPECTATIONS**

Parole staff must ensure that upon reporting to a parole unit, parolees with developmental disabilities are provided parole instructions in such a manner as to ensure the parolee understands—to the best of his/her ability—the parole process, the parolee's responsibilities, and the available assistance and services. Additionally, parole staff may provide reasonable accommodations to assist the DDP parolee in meeting the conditions of parole and avoiding technical parole violations; e.g., the parole agent may need to remind the parolee periodically to report to his/her assigned unit for Parole Outpatient Clinic (POC) appointments, Anti-Narcotic testing or scheduled appointments with the assigned parole agent. Additionally, whenever possible, parole staff must advise DDP parolees of appointment dates and times in writing. This effort may significantly help DDP parolees adhere to parole mandates and avoid returns to custody for failure to follow instructions. If the parolee's developmental disability prevents him/her from reporting to the assigned unit, reasonable accommodation must be made to facilitate parole contact.

#### **D. FIELD SUPERVISION/OFFICE VISITS**

Parole Agents must continue to follow existing policies and procedures as they pertain to the supervision of parolees. The main services received by parolees in a parole office are basic counseling services and supervision provided by the parole agent, and mental health services, including testing, counseling, and psychotropic prescription provided by the Parole Outpatient Clinics. If a parolee has a developmental disability, the unit supervisor must make reasonable modifications in procedures, if necessary, to ensure that the proper services are provided to meet the parolee's needs.

The P&CSD is responsible for obtaining documentation used to verify the inmate's claims of disability in response to a parolee's request for reasonable accommodation. Before June 30, 2001, all case-carrying agents notified active parolees whom they supervised of their rights under Title II of the ADA. At the same time, those agents



identified parolees having disabilities and notified them of their rights in regards to their disabilities, by completing BPT Form 1073 (Notice and Request for Reasonable Accommodation). New releases not previously processed through an RC shall be referred by field staff to clinicians for screening during the initial interview process. Parolees shall cooperate with staff in the staff's efforts to obtain documents or other information necessary to verify a disability and/or accommodation.

#### **E. WRITTEN MATERIALS**

Parole staff must provide the necessary assistance to all DDP parolees on a case-by-case basis to ensure those who have difficulty reading and/or communicating in writing will be provided reasonable access to forms, regulations and procedures; e.g. verbal communication.

#### **F. PAROLE OUTPATIENT CLINICS**

Parolees with developmental disabilities, who have an Axis I diagnosis, must receive reasonable access to Parole Outpatient Clinic services for mental health evaluations or mental health diagnosis. Transitional, or occasionally sustained, therapeutic intervention on an outpatient basis as provided to non-DDP parolees must also be provided to DDP parolees. Treatment services may be supplemented by interagency agreements with other state and county agencies. Before nonroutine services are provided, the Regional Parole Administrator and Mental Health Program Administrator must review them. Parole Outpatient Clinic (POC) staff must receive training in effective communication with DDP parolees.

#### **G. REVOCATION HEARINGS**

If a parolee has a developmental disability that impairs his/her ability to attend a hearing or communicate effectively with the hearing officer, arrangements must be made in advance to provide accommodations for the disability, in accordance with CCR, Title 15, Division 2, Sections 2692 and 2694. Staff responsible for serving notice to affected parolees must assist the parolee with completion of forms. The DDP inmates should always be represented by legal counsel at revocation hearings.

#### **H. EVACUATION PROCEDURES**

- ❖ In the event of an emergency requiring building evacuation, each parole office must ensure the safe and effective evacuation of parolees with developmental disabilities.
- ❖ Local evacuation procedures must be adopted at each parole office.

### **IX. ROLE OF THE REGIONAL CENTER**

California's developmental disability community is served by 21 Regional Centers with more than 40 offices located throughout the state.

Regional Centers provide or coordinate the following services for individuals with developmental disabilities and their families:

- ❖ Information and referral
- ❖ Assessment and diagnosis
- ❖ Counseling
- ❖ Lifelong individualized planning and service coordination
- ❖ Purchase and necessary services included in the individual program plan
- ❖ Resource development
- ❖ Outreach
- ❖ Advocacy for the protection of legal, civil and service rights
- ❖ Early intervention services for at-risk infants and their families
- ❖ Genetic counseling
- ❖ Planning, placement, and monitoring for 24 hours out of the home care
- ❖ Training and education opportunities for individuals and families
- ❖ Community education about developmental disabilities

Once Regional Center staff receives a referral from an institution, they will contact the C&PR and arrange to visit the institution. The C&PR will get authorization to release information to DDS. The DDS caseworker will review the inmate's C-File and Medical Record before interviewing the DDP inmate.

## **X. TRAINING**

### **A. GENERAL**

The CDC must train all custodial, clinical, and departmental staff who interact with DDP inmates/parolees. Clinicians and other staff experts in the subject matter areas must develop the training.

As a means of increasing staff's awareness of developmental disabilities and to increase their likelihood of referring inmates to the institution's health care services when there are indications of less than average adaptive functioning, staff must receive the following:

1. A self-study course, "Overview of Developmental Disabilities," for noncustody staff, including employees at DDP designated CCRCs, FFPs, and CPMPs. The course must focus on signs and symptoms of developmental disabilities, the referral process, and how to effectively communicate with developmentally disabled individuals. This self-study course will inform staff about:
  - a) Developmental disabilities.

- b)* Behaviors indicating developmental disabilities.
- c)* Communication and interaction with DDP inmates/parolees.
- d)* Referring for evaluation inmates whose behavior may indicate developmental disabilities.
- e)* Screening and evaluation process.
- f)* Housing and types of adaptive support services that may be provided to identified DDP inmates.
- g)* Reasonable accommodations for supervising inmates/parolees with developmental disabilities.
- h)* The role of Regional Centers and institution and parole staff in the application process.

The self-study course will include a mandatory quiz to measure and assure each staff person has a basic understanding of developmental disabilities and CDC's resources for identified DDP inmates. The completion of each quiz must be documented in the employee's training files/record.

## **B. NEW EMPLOYEE TRAINING**

During New Employee Orientation, new employees and employees who transfer from one institution to another must receive the self-study course (noncustody staff) or the two-hour formal classroom presentation, "Overview of Developmental Disabilities," described below (custody staff), and the existing training module, "Signs and Symptoms of Mental Disorders." The two training tools include information on recognizing the signs and symptoms of developmental disabilities. The training tools also include the following:

- 1.* Information about how inmates who "may not have serious mental disorders but show significant impairment in day-to-day living" may receive treatment or other services through the Mental Health Services Delivery System.
- 2.* The addition of "unable to follow daily routine or instructions" and "vulnerable" to the list of "behavioral symptoms" that may result in referral.
- 3.* The addition of the statement "Always make a referral when there is a concern for the inmates' ability to care for themselves or protect themselves from being taken advantage of," to the discussion of "symptoms warranting referral."
- 4.* The addition to the Student Handbook of a one-page description of the symptom characteristics of mental retardation, which accompanies the "Signs and Symptoms of Mental Disorders" training module.

### **C. INSTITUTIONAL PSYCHOLOGISTS AND SOCIAL WORKERS**

Institutional Psychologists and Social Workers must be trained on testing and evaluating mental retardation.

1. The training module will cover testing and evaluating mental retardation, and making recommendations for adaptive support services. Training will include:
  - a) Reviewing criteria for mental retardation.
  - b) Reviewing the Lanterman Act's description of developmental disabilities.
  - c) Reviewing the standardized instruments for testing cognitive ability; i.e., Quick, TONI-Third Edition, GAMA, and CASE tests.
  - d) Using various tools to evaluate adaptive functioning.
  - e) Reviewing proposed criteria for adaptive support services; i.e., placement into settings according to designation as DD1, D1A, DD2, or DD3.
2. Training must be provided, as necessary, to all departmental psychologists and Social Workers at all Department facilities prior to implementation of the Remedial Plan.
3. Each institution will receive the testing materials required for testing mental retardation; i.e., the Quick, TONI-Third Edition, GAMA and CASE, before implementation of the Remedial Plan.

### **D. CUSTODY STAFF**

All custody staff must receive the two-hour formal classroom-training module "Overview of Developmental Disabilities." Departmental Psychologists and Social Workers must train such staff. The two-hour overview must contain information as described in Section X, A, 1, above.

All custody staff must be trained in "Referral of Inmates Who May Have a Developmental Disability."

All staff participating in classification functions (IDST/UCC/ICC) must be trained in "Classification Services for the Inmate with Developmental Disabilities."

All custody staff at designated DDP institutions must be trained in "Programming and Services for Inmates with Developmental Disabilities."

All staff assigned to IDST or as SA for an inmate identified as developmentally disabled must be trained in "Overview of the Inmate Disciplinary System."

All staff conducting disciplinary hearings for inmates identified as developmentally disabled must be trained in "Hearing Official for the Inmate with Developmental Disabilities."



All staff assigned as an SA to an inmate identified as developmentally disabled must be trained in "Staff Assistance for the Inmate with Developmental Disabilities."

All custody staff must receive a two-hour refresher course each year about the requirements of the DDP.

#### **E. CLINICIANS IN PAROLE OUTPATIENT CLINICS**

In addition to the self-study course, clinicians in the Parole Outpatient Clinics must receive training in effective communication with developmentally disabled individuals.

### **XI. COMPLIANCE REVIEWS**

The CDC must conduct annual Compliance Reviews of the court-approved Remedial Plan in both designated and nondesignated institutions. This compliance review will be used to monitor institutions' compliance with the Remedial Plan, to ensure that inmates with developmental disabilities are being effectively identified, and to ensure that the identified needs of those inmates are being met. The compliance document will reflect the type of facility, RC, DDP, or non-DDP being reviewed. The review will be accomplished using a uniform, standardized instrument developed to ensure implementation of the Remedial Plan. The instrument will contain a standard set of inquiries that will monitor—at minimum—classification, appeal, and disciplinary processes; inmate assignments; and provision of required services. Inmates' counsel will have an opportunity to review the instrument before implementation of the Compliance Reviews.

A formal report of the findings and recommendations of the review must be prepared and forwarded/presented to the Warden. The Warden must respond by submitting a Corrective Action Plan for correcting the noted deficiencies and may include a discussion of any findings considered to be in error. The Corrective Action Plan must fix responsibility, specify the actions to be taken to correct the deficiencies, and establish the time limits within which corrective actions must be completed.

**RECOMMENDATION FOR ADAPTIVE SUPPORT**

Inmate Name \_\_\_\_\_ CDC# \_\_\_\_\_ Institution \_\_\_\_\_ Housing \_\_\_\_\_

**Excluded from Developmental Disability Program (DDP):****NCF** ☐ Received passing score on cognitive test. No further evaluation needed without referral.**DD0** ☐ Inmate did not pass or did not take a cognitive test, no adaptive support needs, provisional.  
Reevaluate within 120-210 days.**NDD** ☐ Inmate did not pass or did not take a cognitive test, no adaptive support needs.  
No reevaluation needed without referral.**Included in DDP:** *Inmate must always have a Staff Assistant in disciplinary hearings, classification committee hearings, and in all contacts involving the use of a CDC Form 114-D (administrative segregation reviews and hearings). In addition:***DD1** ☐ Does not usually require prompts to initiate/complete self-care and activities of daily living.  
Inmate may need adaptive supports when under unusual stress or in new situations.**D1A\*** ☐ Same functional ability as DD1.**DD2\*** ☐ Requires occasional prompts to initiate/complete self-care and activities of daily living.**DD3\*** ☐ Requires frequent prompts to initiate/complete self-care and activities of daily living.**\* Victimization Concerns:** *requires housing in a designated DDP building/unit/wing, consistent with other case factors.***Justification of DD0 and NDD / Adaptive Support Needs of DD1, D1A, DD2, and DD3:**


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Check one:	<input type="checkbox"/> Regional Center Consumer
	<input type="checkbox"/> May be eligible for Regional Center referral ( <i>possible onset before age 18</i> )
	<input type="checkbox"/> Not eligible for Regional Center referral ( <i>no developmental disability before age 18</i> )

Mental Health Clinician: \_\_\_\_\_  
Signature \_\_\_\_\_ Print or stamp name \_\_\_\_\_ Title \_\_\_\_\_ Date \_\_\_\_\_

(If the above is unlicensed)

Unlicensed Clinician: \_\_\_\_\_  
Signature \_\_\_\_\_ Print or stamp name \_\_\_\_\_ Title \_\_\_\_\_ Date \_\_\_\_\_

DISTRIBUTION: ORIGINAL: Central File  
COPIES: Unit Health Record Assigned CC-I Housing Unit I/M Assignment Office Inmate  
DDP Counselor C&PR or CC-III Education File Work Supervisor

**DDP**

## ***INSTRUCTIONS***

- NCF**      Scored above 80 on Quick Test or TONI-3, or above 75 on GAMA or Wechsler.
- DD0**      Inmate did not pass or did not take a cognitive test. Adaptive support evaluation at the Reception Center identified no substantial deficits in self-care, activities of daily living, social skills, or self-advocacy. Inmate will be reevaluated within 120-210 days.
- NDD**      Inmate did not pass or did not take a cognitive test. Adaptive support evaluation on the mainline identified no substantial deficits in self-care, activities of daily living, social skills, or self-advocacy.

**Inmates classified with designations listed below require adaptive support services to function in institution settings. The Clark Remedial Plan requires the assignment of a Staff Assistant for all due process hearings involving Developmental Disability Program (DDP) inmates.**

- DD1**      **SELF-CARE:** Does not usually require prompts to initiate/complete all aspects of self-care.  
**DAILY LIVING SKILLS:** May occasionally need prompts to initiate cell cleaning, laundry, etc. May need additional time to be oriented/trained in new situations and jobs.  
**SOCIAL SKILLS:** Appears to interact appropriately with other inmates and staff. May need adaptive supports or additional supervision when under unusual stress or in new situations.  
**SELF-ADVOCACY:** With staff assistance, inmate demonstrates understanding of relevant issues in a hearing process. May require help in reading, writing, and preparing documentation.
- D1A\***      Same support needs as DD1 except:  
**Victimization Concerns:** See below.
- DD2\***      **SELF-CARE:** Requires occasional prompts to initiate/complete all aspects of self-care.  
**DAILY LIVING SKILLS:** Usually needs prompts to initiate cell cleaning, laundry, etc. Needs additional time to be oriented/trained in new situations and jobs.  
**SOCIAL SKILLS:** May need adaptive supports and additional supervision for appropriate interaction with others, following rules, and avoiding social isolation.  
**SELF-ADVOCACY:** With staff assistance, may demonstrate poor understanding of relevant issues in a hearing process. Likely to require help in reading, writing, and preparing documentation.  
**Victimization Concerns:** See below.
- DD3\***      **SELF-CARE:** Usually requires prompts to initiate/complete all aspects of self-care.  
**DAILY LIVING SKILLS:** Usually needs prompts to initiate cell cleaning, laundry, etc. Needs additional time to be oriented/trained in new situations and jobs.  
**SOCIAL SKILLS:** Needs adaptive supports and additional supervision for appropriate interaction with others, following rules, and avoiding social isolation.  
**SELF-ADVOCACY:** With staff assistance, unlikely to demonstrate understanding of relevant issues in a hearing process. Requires help in reading, writing, and preparing documentation.  
**Victimization Concerns:** See below.

**\*Victimization Concerns (D1A, DD2 and DD3):** Requires housing in a designated DDP, building/unit/wing, consistent with other case factors. These inmates may be easily influenced by others to give up personal property, engage in illegal activity, or other inappropriate behavior. Also may be at risk for nonconsensual sexual behavior or physical abuse.